Monday,
29th November, 1954

LOK SABHA DEBATES

VOLUME VIII, 1954

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EIGHTH SESSION, 1954

LOK SABHA SECRETARIAT
NEW DELHI

LOK SABHA DEBATES

Dated 02.12.2014

(Part I—Questions and Answers)

LOK SABHA

Monday, 29th November, 1954

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

INTERNATIONAL EXHIBITION ON TOURISM

***439. Sardar Hukam Singh:** Will the Minister of **Transport** be pleased to state:

(a) whether it is a fact that an International Exhibition on Tourism was held in Mussoorie recently;

(b) if so, the names of the countries which participated; and

(c) whether any literature of interest to tourists was supplied at this Exhibition?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) Yes. A literary exhibition was held in Mussoorie in October, 1954.

(b) Germany, Holland, France, Italy, U.S.S.R., U.S.A., Switzerland, Pakistan and India.

(c) Some literature was supplied by the Embassies of the foreign countries for free distribution. It did not relate specifically to tourism.

Some tourist literature was also supplied by the Transport Ministry to the Festival Committee at Mussoorie.

Sardar Hukam Singh: Was the invitation to the Exhibition extended to all the countries whose representatives are here, or was it confined to a few countries?

Shri Shahnawaz Khan: The Exhibition was organised by the Honorary Secretary, Autumn Festival Committee, Mussoorie and we had nothing to do with the issuing of invitations.

Sardar Hukam Singh: Which was the country that displayed the biggest literature in that Exhibition?

Shri Shahnawaz Khan: It was a festival organised by a local committee and we did not take much interest in it.

HAFFKINE INSTITUTE, BOMBAY

***440. Shri V. P. Nayar:** Will the Minister of **Health** be pleased to state:

(a) whether it is a fact that the Haffkine Institute, Bombay has an agreement with Messrs. Imperial Chemicals Industries for the manufacture of synthetic drugs and antimalarials including proguanil Hydrochloride (paludrine); and

(b) if so, whether Government will lay a copy of that agreement on the Table of the House?

The Minister of Health (Rajkumari Amrit Kaur): (a) The Haffkine Institute, Bombay has entered into an agreement with Messrs. Imperial Chemical Industries Ltd., England for licence for undertaking the manufacture of Proguanil 5—Hydro-chloride (Paludrine) and its Salts but not for the manufacture of other synthetic drugs and antimalarials.

(b) A copy of the agreement is laid on the Table of the Sabha. [*Placed in the Library. See* No. S. 432/54.]

Shri V. P. Nayar: I find that the agreement was signed in June 1954. I also find that in the Report of the Pharmaceutical Enquiry Committee a definite statement has been made that the Haffkine Institute, Bombay, which has been entrusted with the manufacture of Paludrine has reported to Government that it was impossible for them in view of the absence of trained personnel to continue the work. May I know whether Government of India have any idea to take over the manufacture of Paludrine as is indicated by the Haffkine Institute?

Rajkumari Amrit Kaur: The Haffkine Institute is an institution under the administrative control of the Government of Bombay, so that it is impossible for the Centre to take over the control of anything that they do.

Shri V. P. Nayar: Could I know whether the agreement between the Imperial Chemical Industries. England, and the Government of India have limited the manufacture of Paludrine to the extent of ten thousand pounds only and also that Government will also give the Imperial Chemical Industries the right to manufacture as and when they choose, inspite of the fact that Government may undertake it?

Rajkumari Amrit Kaur: The agreement is not between the Government of India and the Company, but between the Government of Bombay and the Company. The products manufactured under the agreement are not to be supplied or sold through regular trade channels. The State Government, it is true are not authorised to manufacture, use, supply or sell more than ten thousand pounds of Proguanil 5 Hydrochloride in one year.

Mr. Speaker: I think it would be better if a copy of the agreement is laid on the Table of the House.

Rajkumari Amrit Kaur: I have already placed a copy of it on the Table.

Mr. Speaker: Then he need not ask about the contents of the agreement: any further information he can ask.

Shri V. P. Nayar: May I know whether in view of the fact that anti-malarial work has been taken up as a Central responsibility, the Government of India have asked the Government of Bombay to submit to them the draft agreement entered into between them and the Imperial Chemical Industries before they launch upon a programme for the manufacture of Proguanil Hydrochloride?

Rajkumari Amrit Kaur: We had no information at all that the Bombay Government were going to enter into this agreement. The first intimation we received was when we received a copy of the agreement.

WORKSHOP FOR DELHI TRANSPORT SERVICE

*441. **Shri T. B. Vittal Rao:** Will the Minister of Transport be pleased to state:

(a) the extent of progress made in the construction of the workshop, for the Delhi Transport Service;

(b) the amount spent thereon upto the 30th September, 1954; and

(c) when the workshop is likely to be completed?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) The building for the workshop has practically been completed.

(b) The expenditure upto 30th September, 1954 on the building which is to house a depot as well, was Rs. 7 lakhs excluding the cost of land.

(c) The workshop is expected to be in operation by the end of December, 1954.

Shri T. B. Vittal Rao: May I know if the strength of the technicians will be augmented? If so, by how many?

Shri Shahnawaz Khan: That will depend on the requirements of the efficient running of the workshops. We are leaving those minor details to the management.

Shri T. B. Vittal Rao: May I know if the amount of Rs. 7 lakhs that has been spent is only for the building, because the workshop according to the Report of the Authority for 1952-53 was to cost Rs. 20 lakhs?

Shri Shahnawaz Khan: The hon. Member is slightly wrong in regard to figures. The total cost of the workshop is going to be Rs. 12 lakhs out of which we have spent Rs. 7 lakhs already. We are purchasing machinery worth Rs. 50,000 this year.

POPULATION CONTROL

*443. **Shri Krishnacharya Joshi:** Will the Minister of **Health** be pleased to **state:**

(a) what steps Government have taken for population control in the country;

(b) whether the work of the three pilot schemes for population control— two in Delhi and one in Mysore, launched by Government, has been completed; and

(c) whether any report has been submitted to Government in this regard?

The Minister of Health (Rajkumari Amrit Kaur): (a) to (c). A note containing the required information is laid on the Table of the Sabha. [*See* Appendix II, annexure No. 70.]

Shri Krishnacharya Joshi: From the statement it appears that on the recommendation of the Family Planning Research Committee a sum of Rs. 4,25,000 has been sanctioned. May I know how much has been given to Hyderabad State out of this amount?

Rajkumari Amrit Kaur: The Family Planning Association of Hyderabad has received Rs. 14,884.

Shri Krishnacharya Joshi: May I know what are the other recommendations of this Committee?

Rajkumari Amrit Kaur: The recommendations of the Committee have been laid on the Table of the House before. There were several recommendations, most of which have been accepted by Government and are being acted upon.

Th. Lakshman Singh Charak: May I know what work has been done so far by the States which have been allotted this amount?

Rajkumari Amrit Kaur: I have not so far received reports from the States, because the money has only been given very recently.

Shri V. P. Nayar: May I know whether it is not a fact that the Conference of Population Experts which met in Rome in 1953 in which India also participated kept out of the purview of discussions the subject of family planning as an effective measure of population control as was reported by the Press? May I also know whether India's representative, if any, submitted a report about this to the Government?

Rajkumari Amrit Kaur: I think a report has been submitted and, as far as I remember, what the hon. Memmer says is correct.

BHAVNAGAR-TARAPUR RAILWAY LINE

***445. Shri Dabhi:** Will the Minister of **Railways be pleased to refer to the** reply to starred question No. **206 given on the 22nd February,** 1954 and state:

(a) whether Government have since taken any decision regarding the construction of the Bhavnagar-Tarapur line; and

(b) if so, when the construction work would start?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) No, Sir.

(b) Does not arise.

Shri Dabhi: May I know whether any of the persons or organisations who had protested against the construction of this line, have now withdrawn their protest?

Shri Alagesan: Several representations have been received both for and against the construction of this line. I do not have the names of organisations that have expressed their opinion. In all 54 representations were received: of these 15 were in favour and 39 against. Those who were against the project, proposed alternative projects.

Shri Dabhi: May I know how long it will take to take a decision on this matter?

Shri Alagesan: Surveys of other lines also have been ordered along with this and when all the survey reports are received, it will be time to take a decision.

Mr. Speaker: Shri P. C. Bose—Absent.

Shri Jhulan Sinha: Sir, I have got his written authority to put the question.

Mr. Speaker: Then it will come at the end.

CONTRIBUTORY HEALTH SERVICE SCHEME

***451. Ch. Raghubir Singh:** Will the Minister of **Health** be pleased to state:

(a) whether it is a fact that the Contributory Health Service Scheme has been welcomed by the Government employees;

(b) whether Government propose to extend this Scheme to other States also; and

(c) the names of the States which **have accepted this Scheme?**

The Minister of Health (Rajkumari Amrit Kaur): (a) The Scheme has been generally welcomed by the Government employees.

(b) Not at present.

(c) No State Government has so far introduced a similar scheme for its employees.

Ch. Raghubir Singh: May I know whether this scheme is applicable to all sorts of Central Government employees?

Rajkumari Amrit Kaur: Yes, all sorts of government employees in Delhi come under this scheme.

Ch. Raghubir Singh: May I know the details of facilities given to the employees under this scheme?

Rajkumari Amrit Kaur: They have dispensaries, out-door treatment, indoor hospital treatment and domiciliary treatment for themselves and their families.

Shri Kelappan: May I know if it is a fact that under the scheme the doctor has to meet the cost of the mixtures that he prescribes and that only patent medicines will be supplied from the Government stores?

Rajkumari Amrit Kaur: No, Sir, if the hon. Member could visit any of the dispensaries he would find that it has got a good stock of medicines and the doctor does not have to pay for them.

Sardar Hukam Singh: How is the contribution of these employees fixed? Is it some percentage of the pay that they get or is it some fixed amount that the low paid staff have to pay under the scheme?

Rajkumari Amrit Kaur: It is a fixed amount and the papers have been laid on the Table of the House many a time. Subscriptions run from eight annas per month for the lowest paid government employees to Rs. 12 a month for the highest.

जोनल वापसी टिकट

***४५२. सेठ गोविन्द दास :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि किन किन महाखंडों (जोनों) में १९५४ में जोनल वापसी टिकट प्रचलित किये गये थे ?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): No Zonal Return Tickets were issued by Railways during 1954, but concessional return tickets were issued by the Railways in connection with fairs and melas in 19 cases besides the hill concession tickets which are given to several hill stations in summer. List of concession given is placed on the Table of the House. [*See* Appendix II, annexure No. 71.]

सेठ गोविन्द दास : क्या अगले साल इस तरह के कोई जोनल टिकट दिये जाने का इरादा है ?

श्री शाहनवाज खां : मैं अभी अर्ज कर चुका हूं कि कोई जोनल टिकट नहीं दिये जाते ।

सेठ गोविन्द दास : मैं पूछ रहा हूं कि अगले साल ऐसे टिकट दिये जाने का कोई विचार है या नहीं ?

श्री शाहनवाज खां : कोई ऐसा इरादा नहीं है ।

सेठ गोविन्द दास : यह जो सस्ते टिकट कुछ स्थानों पर दिये गये हैं उन के लिये क्या इस बात का कोई खयाल रक्खा गया है कि यह सब रेलों में दिये जायें या किन्हीं खास खास रेलों में ही दिये गये हैं ?

श्री शाहनवाज खां : यह तो जिन जिन मुकामात पर लोग जाना चाहते हैं, खास कर जो हिल स्टेशन्स हैं, उन की अहमियत को देख कर दिये जाते हैं, रेलवे के मुताबिक नहीं ।

MOKAMEH BRIDGE

*454. **Shri Jhulan Sinha:** Will the Minister of Railways be pleased to state:

(a) the agency or agencies to which the construction of the Mokameh Bridge has been entrusted;

(b) the total cost as finally estimated; and

(c) whether it is a fact that construction work has been slowed down for want of high tension iron material?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) The construction of Mokameh Bridge has been entrusted to an Indian Combine—The Ganga Bridge Construction Co.

(b) 14·62 crores excluding interest charges.

(c) No, Sir.

Shri Jhulan Sinha: May I know if it is a fact that part of the construction work is being done departmentally also?

Shri Shahnawaz Khan: Yes; a certain portion of it.

Shri Jhulan Sinha: What are the advantages that the Government will derive by having these two agencies side by side—departmental and contractors?

Shri Shahnawaz Khan: As the hon. Member knows, construction of the bridge across the Ganga is a very big task and it is not possible for one agency to complete the entire work; therefore, it has to be distributed.

Shri Jhulan Sinha: May I know whether the work is going on in full swing already?

Shri Shahnawaz Khan: The work is progressing satisfactorily. We had a slight hitch over the pitching of boulders. The contractors could not keep up with the required quantities and we had to terminate their contract. We have now renewed the contract in favour of somebody else.

Shrimati Tarkeshwari Sinha: May I know whether any portion of work of the Mokameh Bridge is going to be entrusted to some foreign construction company also in the near future?

Shri Shahnawaz Khan: The contract has already been given to a firm, as I said.

Shrimati Tarkeshwari Sinha: I want to know whether a portion of the work is going to be entrusted to a foreign company?

Mr. Speaker: He has already said in the beginning that the work has been entrusted to an Indian combine; so, no question of foreign company arises.

RAILWAY LABOUR UNION

*455. **Shri Nambiar**: Will the Minister of **Railways** be pleased to state:

(a) whether it is a fact that more than one labour organisation are at present recognised on each Railway;

(b) if so, the number on each Railway;

(c) the action taken to recognize the Southern Railway Labour Union; and

(d) the criteria followed in granting recognition to Railway Trade Unions?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). Only on the North Eastern, Eastern and Southern Railways, more than one Union is recognised at present, their number being 2 on the North Eastern, 5 on the Eastern and 3 on the Southern Railway.

(c) and (d). No action has been taken as Government do not at present propose to consider the recognition of unions other than those formed in consequence of regrouping by amalgamation with, or of one or more unions which are already recognised, keeping in mind the decision to deal at the Ministry level with only the National Federation of Indian Railwaymen.

Shri Nambiar: May I know whether a union registered under the Trade Union Act and functioning for several years is discriminated against on grounds of non-recognition?

Shri Alagesan: Certainly, Sir; we do not have any dealings with a union which has not been recognised. It is not 'discrimination'; it is 'non-recognition'.

Shri Nambiar: May I know whether the membership of each union is taken into consideration for recognition, or only the fact of one's affiliation with the Railwaymen's Federation?

Shri Alagesan: Membership is certainly taken into account.

Shri Nambiar: May I know whether the Government do a sort of ballot to determine the claims of membership of each union?

Shri Alagesan: No, Sir, the claims are verified and we take those verified figures. No ballot is proposed to be held. But, I may add that the membership is not the only criterion. As I said, we do not propose to recognise more unions. Even as it is, on three railways there is only one union which is recognised.

Shri A. M. Thomas: May I know whether the Railway Ministry has any scheme for reorganisation of labour unions on the lines adopted by the Communications Ministry?

Shri Alagesan: In fact, the Communications Ministry has taken the clue from the Railway Ministry.

Shri T. B. Vittal Rao: The Deputy Minister for Railways has just now said that the Communications Ministry took the clue from the Railway Ministry. But, when the reorganisation of unions was done on the postal side it was done on a democratic basis whereas in the railways it was not done so. In view of this may I know whether the recognition of the three unions that are being recognised in the Eastern Railway, was granted before the amalgamation or after that

Shri Alagesan: In fact, the policy has been approved by the non-recognised unions also. If my information is correct, other unions which at present do not enjoy recognition are having talks with the main union for merger. Even on the Southern Railway—Shri Nambiar is intimately connected with the union for which he stands—the unions are having talks with the main union. That is my information.

Shri Nambiar: One more question.

Mr. Speaker: I won't allow any more questions. Let us go to the next question.

AGRICULTURAL PRICES INQUIRY COMMITTEE

*457. **Shri H. N. Mukerjee:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the Agricultural Prices Inquiry Committee has submitted its report; and

(b) if so, whether a copy thereof will be laid on the Table; and

(c) the steps that are being taken to implement its recommendations?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) and (b). Yes, Sir. Ten copies of the Report have been placed in the Library of Lok Sabha.

(c) The recommendations made by the Committee have been accepted by the Government of India and have also been forwarded to State Governments for implementation.

Shri H. N. Mukerjee: May I know if it is a fact that on account of present defects regarding the selection of centres where data is collected, valid conclusions cannot be drawn regarding the trends in prices on the basis of the available data?

Dr. P. S. Deshmukh: It is a fact, Sir. I am not prepared to admit the deficiency in the same words as my hon. friend has put in, but the situation is not satisfactory and improvement is necessary.

THEFT IN TRAINS

*458. **Shri Bhagwat Jha Azad:** Will the Minister of Railways be pleased to state:

(a) whether a goods train was held up between Wazirganj and Jamuawan railway stations on the South Bihar Section in the first fortnight of October, 1954;

(b) whether it is a fact that a large number of bags were removed by the miscreants;

(c) for how long this train was detained; and

(d) the action taken against the miscreants?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) The Government are not aware of any such hold-up.

(b) to (d). Do not arise.

Shri Bhagwat Jha Azad: May I know if the attention of the Government was drawn just one month back to the fact that a big hold-up had taken place and that the train was detained for hours and that looting was going on for hours and there was no intervention by anybody?

Shri Shahnawaz Khan: We are not aware of any such hold-up.

INDIA-CHINA TRADE AGREEMENT

*462. **Shrimati Tarkeshwari Sinha:** Will the Minister of Food and Agriculture be pleased to state:

(a) the quantity of rice which will be exported to China from India, under the recent India-China Trade Agreement; and

(b) whether all the rice will be exported during the year 1954-55?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): (a) and (b). The recent India-China Trade Agreement envisages the grant by the two Governments of facilities for the import and export of certain commodities including rice, subject to the Laws and Regulations of the two countries for the time being in force. There is no undertaking on the part of the Government of India to supply any specific quantity of rice to China.

Shrimati Tarkeshwari Sinha: May I know what price is to be paid by China for the purchase of Indian rice if they do, and how does it compare with the market price?

Shri M. V. Krishnappa: We have an agreement for the export of 2,500 tons to Tibet on China's account and it has been agreed to supply to China at the rate of £50 15s. per ton.

Shrimati Tarkeshwari Sinha: May I know if that rice is supplied to China on a barter basis and, if so, what other commodities we are going to get in exchange for rice?

Shri M. V. Krishnappa: It is not on a barter basis. China has agreed to pay in terms of cash and they have opened an account with the Imperial Bank at Calcutta.

Shrimati Tarkeshwari Sinha: May I know if this is the first consignment of rice that is to be exported, and if so, what is the total amount of rice that Government propose to export during this year?

Shri M. V. Krishnappa: We are prepared to export some rice, even to the extent of 2 to 3 lakh tons, because we have got enough of rice, but the trouble is that no country is prepared to purchase. We are entering the market a little bit late and all the importing countries have already entered into agreement with the exporting countries. We are late this year, but from next year onwards I think we will be able to export a sufficient quantity.

RAILWAY CONNECTIONS WITH KASHMIR

***465. Shri Keshavaiengar:** Will the Minister of Railways be pleased to state whether any progress has been made with regard to the linking of the Kashmir State with the rest of India by railways?

The Deputy Minister of Railways and Transport (Shri Alagesan): It is proposed to carry out surveys for extending the line from Madhopur to Lakhanpur in the first instance and later to Kathua.

Shri Keshavaiengar: Has the Government any proposals to connect Jammu and Srinagar?

Shri Alagesan: That will come up, if at all it comes, much later. We have already sanctioned the construction of Pathankot-Madhopur line. The idea is to take it from Madhopur to Lakhanpur and then to Kathua.

Shri T. B. Vittal Rao: May I know the distance between Madhopur and Lakhanpur?

Shri Alagesan: The distance is not much but a river intervenes, and we have to construct a bridge over the river, and so it will take a lot of time to survey.

THEFT IN P. & T. DIRECTORATE, ORISSA

***467. Shri Sanganna:** Will the Minister of Communications be pleased to state:

(a) whether it is a fact that a theft in the store room of the office of the Director of Posts and Telegraphs Orissa, took place in the month of September 1954;

(b) if so, the value of property involved; and

(c) whether the culprits have been traced and punished?

The Minister of Communications (Shri Jagjivan Ram): (a) Yes, the theft actually took place in the month of August 1954.

(b) Rs. 560 (approximatetly).

(c) The culprits have been arrested and the case is under trial. Departmental enquiries are also proceeding.

Shri Sanganna: May I know whether the theft was committed during the day or at night?

Mr. Speaker: I think we better proceed with the next question.

CALCUTTA PORT

***468. Shri T. K. Chaudhuri:** Will the Minister of Transport be pleased to state:

(a) whether it is a fact that the port of Calcutta is threatened by the silting up of the rivers Bhagirathi, Jalangi and Matha Bhanga;

(b) whether Government have obtained the considered opinions of Commissioners of the Port of Calcutta in this regard;

(c) whether any measures have been adopted for increasing the head-water supply in these three rivers; and

(d) if so, what are they?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) The Hooghly river system shows trends of deterioration on account of lack of perennial upland discharge both from the upper and lower tributaries of the Hooghly as also due to play of natural tidal forces.

(b) Yes.

(c) and (d). The matter is still under consideration. At present navigable depths are being maintained in the river by large-scale dredging. River training works which will afford relief to some extent have also been undertaken.

Shri T. K. Chaudhuri: Has it been considered by the Government whether the Ganga Barrage Scheme proposed by the West Bengal Government, which plans for the offtake of 20.000 causecs of silt-free water into the canal of the Bhagirathi river, would provide any solution for this problem?

Shri Alagesan: It is under the consideration of Government.

Shri T. K. Chaudhuri: May I know whether any negotiations in this regard have been undertaken by our Government with the Government of Pakistan because the Ganga Barrage Scheme would affect the flow of the river Ganges near the border of Pakistan, and has their attitude been ascertained?

Shri Alagesan: I am not in a position to give this information; perhaps the Ministry which deals with it may be able to give the answer. I am not in possession of the information.

Shri Meghnad Saha: In view of the assurance given by the Minister that the navigable depth is being maintained, may I know the maximum size of vessels which can come to the Calcutta port?

Shri Alagesan: It is not at all hours, but when the tide is favourable, the maximum depth for ships to come in is about 26 feet.

Shri Meghnad Saha: That is no answer to my question.

Shri T. K. Chaudhuri: May I know whether the attention of the Government has been drawn by the Port authorities concerned to the added danger to the port of Calcutta by the controlled outflow of the Damodar water into the Hooghly canal?

Shri Alagesan: That was considered by a Committee which stated that the Damodar Valley will not adversely affect though it may divert the water.

INSTITUTE FOR HIGHER MEDICAL EDUCATION

***471. Shri Randaman Singh:** Will the Minister of Health be pleased to state the progress made so far in the establishment of a Research and Higher Medical Education Institute as provided in the Five Year Plan?

The Minister of Health (Rajkumari Amrit Kaur): A statement showing the progress so far made in respect of the establishment of the All-India Medical Institute is laid on the Table of the Sabha [*See* Appendix II, annexure No. 72.]

Shri T. S. A. Chettiar: May I know when it is expected to function?

Rajkumari Amrit Kaur: If all goes well, some post-graduate studies are hoped to be begun next year and the under-graduates' college in 1956.

श्री रणदमन सिंह : हिन्दी में समझाने की कृपा करें ।

Mr. Speaker: Will the hon. Minister be able to give the translation of English into Hindi?

राजकुमारी अमृतकौर : मैं ने यही जवाब दिया था कि जितनी तरक्की आजतक हुई हैं उसका बयान मेज पर रख दिया गया हैं ।

सेठ गोविन्द दास : जहांतक पद्धतियों का सवाल हैं वहांतक किस किस पद्धति की शिक्षा इसमें प्रचलित होगी ?

राजकुमारी अमृतकौर : यहां तो माडर्न मैडिसिन की ही शिक्षा होगी ।

NAMES OF RAILWAY STATIONS

*474. **Shri Veeraswamy:** Will the Minister of **Railways** be pleased to state:

(a) whether it is a fact that Hindi equivalents of names of Railway Stations in Tamil Nad have been re-written after erasure by the Dravidian Federation; and

(b) if so, the amount spent in re-writing the names?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) Yes.

(b) The exact amount of expenditure cannot be stated, as this item of work was taken up along with petty repairs and maintenance in the usual course. The amount, however, is negligible.

Shri Veeraswamy: May I know why the Government of India are persisting in re-writing the names of railway stations in Hindi in the South and that against the feelings of the people and wasting public money?

Mr. Speaker: Order, order.

Shri Raghavaiah: May I know why the Government is not taking the trouble to see that such erasure is not taking place in certain places?

Mr. Speaker: Order, order. Same thing again.

Shri Kelappan: May I know if the Government will see to it that if any wanton attempt is made to erase them again, it will be stopped?

Shri Shahnawaz Khan: We have come to the conclusion that the best course is just to ignore those attempts.

Shri Achuthan: Has it not come to the notice of the Government that the head of the Dravidian Federation has now switched over from this venture to another venture against the Malayalee officers in the Madras State, thus creating bitter feelings between the Tamilians and the Malayalees?

ASSAM RAIL LINK

*475. **Shri L. Jogeswar Singh:** Will the Minister of **Railways** be pleased to state:

(a) the extent of damage done to the Assam Link of the North Eastern Railways during the recent floods; and

(b) the names of the areas where rail communications have now been restored?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Extensive damage was caused to the Assam Link during the recent floods. The total cost has not yet been fully evaluated.

(b) The through traffic on the line has been resumed with effect from 13-11-54.

Shri L. Jogeswar Singh: May I know how many months will it take now to restore complete railway communications?

Shri Alagesan: Temporary works were completed at about Rs. 34 lakhs, and the service has been resumed. The question of permanent construction of bridges, etc., is under consideration. I cannot give the time when these permanent constructions will be finished.

Shri L. Jogeswar Singh: May I know whether the Government is receiving complaints from people in Assam and other areas over the undue delay in the restoration of railway communications and whether it is a fact that it is due to the Government and railway authorities that the delays are caused?

Shri Alagesan: Naturally, we are interested in restoring communications as quickly as possible, but, as the House is aware, the floods are phenomenal and we could not do much in the face of floods. We did our best and saw to it that communications are restored at the earliest date.

Shri Barman: There are two lines branching off from the Assam link—one leading to Barnes and the other to Changrabanda. Both these branches have not been repaired. May I know what time it will take to have these repairs done on these two lines? .

Shri Alagesan: I would like to have notice.

BREEDING OF BUFFALOES

***477. Shri C. R. Narasimhan:** Will the Minister of **Food and Agriculture** be pleased to state the action taken on the recommendation of the Estimates Committee as contained in para 21 of their Tenth Report regarding scientific breeding of buffaloes to meet the milk requirements of the country?

The Minister of Agriculture (Dr. P. S. Deshmukh): A statement is laid on the table of the Sabha. [*See* Appendix II, annexure No. 73.]

Shri C. R. Narasimhan: May I know why the statement is silent on the Committee's reference to the possibility of development of the export market in respect of buffaloes?

Dr. P. S. Deshmukh: I do not think we are silent deliberately. Probably there is no possibility of developing a large export market.

Shri C. R. Narasimhan: The Committee recommended that there was a possibility of development of export markets. I want to know whether the Government paid any attention to that

Dr. P. S. Deshmukh: I would like to have notice of the question.

Shri C. R. Narasimhan: Is similar research work being carried on in respect of buffaloes in the Guntur State Government Farm, and if so, what is the development there?

Dr. P. S. Deshmukh: That must be within the State's purview. It is not the Government of India's work; it is the State's.

Khandsari SUGAR

***478. Shri G. L. Chaudhary:** Will the Minister of **Food and Agriculture** be pleased to state the quantity of *Khandsari* sugar that is annually produced in Uttar Pradesh?

The Minister of Agriculture (Dr. P. S. Deshmukh): The annual producion of *khandsari* sugar in U.P. is on an average about 90,000 tons.

Shri G. L. Chaudhary: Would Government include this industry in the Five Year Plan?

Dr. P. S. Deshmukh: This has now been assigned to the All-India Khadi and Village Industries Board which is looking after this matter and evolving some processes which will probably help larger production.

CORRUPTION AMONGST RAILWAY EMPLOYEES

***479. Shri Brajeshwar Prasad:** Will the Minister of **Railways** be pleased to refer to the reply to starred question No. 80 asked on the 16th November, 1954 and state the reasons why no prosecution has been launched against certain officials of the *ex*-Saurashtra Railways who are alleged to have misappropriated a sum of Rs. 13 lacs?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): The report of the Enquiry Committee is still under consideration. Action to be taken against the officials will depend on the decisions on the Enquiry Committee's Report.

Shri Brajeshwar Prasad: May I know when the Committee's report was submitted to Government?

Shri Shahnawaz Khan: The report of the Enquiry Committee was submitted to the Railway Board in July, 1954.

Shri Brajeshwar Prasad: Who were the Members of the Enquiry Committee?

The Minister of Railways and Transport (Shri L. B. Shastri): They were officers of the Western Railway. I cannot name all of them, but the Chairman was Mr. Sareen.

Shri T. B. Vittal Rao: How many of the officials were gazetted officers, and after how many months after the misappropriation took place that the crime was detected?

Shri Shahnawas Khan: The officials implicated in this alleged embezzlement are all gazetted officers.

Shri T. B. Vittal Rao: May I know the *modus operandi* adopted by these officers in the misappropriation of this amount?

Mr. Speaker: Let it be investigated.

Shri Nambiar: We want to know how they did it. How was it actually done?

Shri T. B. Vittal Rao: We are entitled to know how it was done.

Mr. Speaker: The method need not be advertised—lest others should follow them. Next question.

WIRELESS TRANSMITTER LICENCES

***481. Sardar Hukam Singh:** Will the Minister of **Communications** be pleased to state:

(a) the total number of wireless transmitter licences on the 1st November, 1954; and

(b) the number of new licences issued during 1954 till the 31st October, 1954?

The Minister of Communications (Shri Jagjivan Ram): (a) 2068 wireless transmitter licences.

(b) 268 new licences were issued during 1954 till the 31st October, 1954.

Sardar Hukam Singh: Was there any unlicensed wireless transmitter seized during the last twelve months in the country?

Shri Jagjivan Ram: A few were seized, but I have not got the information regarding them, with me.

MANUFACTURE OF VACCINE

***482. Shri V. P. Nayar:** Will the Minister of **Health** be pleased to state:

(a) whether Government have taken any steps to produce the triple vaccine for whooping cough, diphtheria and tetanus; and

(b) what is the estimated toll of children per year on an average by these diseases?

The Minister of Health (Rajkumari Amrit Kaur): (a) No.

(b) Government have no information.

Shri V. P. Nayar: May I know whether the Government are aware that the Haffkine Institute has made successful experiments in developing a vaccine for whooping cough, and if so, whether Government are having consultations with them?

Rajkumari Amrit Kaur: I have not got that information with me.

Shri V. P. Nayar: May I know whether Government are aware that whooping cough, diphtheria and other diseases take a very heavy toll of children—especially the school-going children in this country?

Rajkumari Amrit Kaur: I have not got statistics from the States, but the only information I have is about the number of cases treated and the number of deaths recorded from these diseases collected from the annual reports. I have not got the number of deaths under age-groups.

Shri V. P. Nayar: May I know whether the attention of the hon. Minister has been drawn to the reference made by the Pharmaceutical Enquiry Committee, in its recent report, that in view of the fact that whooping cough and diphtheria are taking a very heavy toll of children—and also tetanus—Government should embark upon a project and manufacture the triple vaccine immediately?

Rajkumari Amrit Kaur: I have taken note of the recommendations but the demand for the vaccine is so small from the States that I have not thought it worth while to embark on any venture. What is being produced today by the three firms seems to suffice.

P. & T. TRAINING CENTRE, HYDERABAD

***483. Shri T. B. Vittal Rao:** Will the Minister of **Communications** be pleased to refer to the reply given to unstarred question No. 620 on the 22nd September, 1954 and state:

(a) whether Government have since been able to acquire a plot of land for the construction of a Departmental building to house the P. and T. Training Centre at Hyderabad;

(b) if so, when the construction of the building will start; and

(c) what amount out of the budgeted sum has so far been spent in this connection?

The Minister of Communications (Shri Jagjivan Ram): (a) No.

(b) Does not arise in view of answer to part (a).

(c) Nil.

Shri T. B. Vittal Rao: May I know what efforts have been made by Government for acquiring a plot?

Shri Jagjivan Ram: Efforts were being made, but in the meantime, the entire question whether we should have any institutes, like the one at Saharanpur, established in other places or not, is being examined by the Ministry of Finance.

Shri Krishnacharya Joshi: Question No. 499, standing in my name, may also be taken along with this.

Mr. Speaker: Yes.

RAILWAYS OF FORMER INDIA STATES

***485. Shri Krishnacharya Joshi:** Will the Minister of **Railways** be pleased to state the nature of the reforms introduced in the Railways belonging to erstwhile Indian States after they were integrated with the Indian Railways from the 1st April, 1950?

The Deputy Minister of Railways and Transport (Shri Alagesan): The main changes introduced on the erstwhile Indian States Railways after integration with the Indian Railways were the implementation of the recommendations of the Central Pay Commission and the adjudicator's award.

RAILWAYS OF FORMER INDIAN STATES

***499. Shri Krishnacharya Joshi:** Will the Minister of **Railways** be pleased to state whether the Railways of the former Indian States have fallen in line with the Indian Railways as far Administrative and other matters are concerned?

The Deputy Minister of Railways and Transport (Shri Alagesan): The administrative set-up of ex-Indian States Railways has been brought in line with that of Indian Railways. In other matters, such as operating improvements, passenger and staff amenities, these railways are being brought up to the level of Indian Railways expeditiously.

Shri Krishnacharya Joshi: May I know, before integration, how many State Railways were State-managed, and how many were company-managed and what were the defects in the old administration?

Mr. Speaker: He includes all the States or only Hyderabad?

Shri Krishnacharya Joshi: The first part relates to all States and the second part to Hyderabad.

Mr. Speaker: Can the hon. Minister give the information or does he want notice?

Shri Alagesan: All told, there were nine State Railways and they were integrated with the Indian Railways. The Nizam State Railway was one.

Shri Krishnacharya Joshi: What were the reforms introduced in Hyderabad?

Shri Alagesan: In Transportation, Commercial and Engineering Departments many of the practices that were obtaining in the Indian Railways have been introduced. I do not think the House will expect me to read the catalogue.

Shri Karni Singhji: Is it a fact that the clerical staff in the former Bikaner State Railway have been adversely affected by the integration of Railways?

Shri Alagesan: I should like to have notice. I do not think they would have been adversely affected.

Shri T. B. Vittal Rao: May I know whether the service conditions of the Ex-Nizam State Railway employees have been changed to their disadvantage after the integration?

Shri Alagesan: I should say, no. I should like to know which aspect the hon. Member has in mind.

Mr. Speaker: We need not discuss the aspects. Next question.

रेलवे कर्मचारियों को माइलेज भत्ता

*४८८. **सेठ गोविन्द दास :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि राजस्थान के उदयपुर और मारवाड़ स्टेशनों पर चैकिंग स्टाफ को पहले जो माइलेज भत्ता दिया जाता था, अब नहीं दिया जाता है ; और

(ख) यदि सच है, तो इसका क्या कारण है ?

रेलवे तथा परिवहन मंत्री के सभासचिव (श्री शाहनवाज खां) : (क) जी हां ।

(ख) भारतीय रेलों में इस तरह के कर्मचारियों को मीलवार भत्ता नहीं दिया जा रहा है क्योंकि उनके काम का सम्बन्ध गाड़ियों के संचालन से नहीं है ।

सेठ गोविन्द दास : क्या और किसी स्थान पर इस तरह का एलाउंस नहीं दिया जा रहा था और अभी भी नहीं दिया जा रहा है जैसे उदयपुर में दिया जाता है ?

श्री शाहनवाज खां : किसी गवर्नमेन्ट रेलवे पर नहीं दिया जाता था ।

पंडित मुनीश्वर दत्त उपाध्याय : जब कोई आदमी बाहर नहीं जाता था तो माइलेज एलाउंस का सवाल ही क्या था और क्यों दिया जाता था ?

श्री शाहनवाज खां : माइलेज एलाउंस सिर्फ उन्हीं को दिया जाता था जो बाहर ड्यूटी पर जाते थे, जो नहीं जाते थे, उन को नहीं दिया जाता था ।

Gur

*490. **Shri Jhulan Sinha:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) the production and consumption of *gur khandsari* in India during the last three years;

(b) what effect the decrease in the production of white sugar in the country and the import of foreign sugar have produced on the price of *gur khandsari;* and

(c) whether there is any other country which produces or consumes *gur?*

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Production of *gur* and *khandsari* during the last three years was as under:—

Year	Production of *Gur* (Lakh tons)	Production of *Khandsari* (Lakh tons)
1951-52	32·40	1·00
1952-53	28·77	0·91
1953-54	25·93	0·95

As *gur* and *khandsari* do not keep long, the entire production is more or less consumed in the year of production.

(b) Although there is no close correlation between the price of sugar and those of *gur* and *khandsari*, fall in the production of white sugar led to a rise in the price of sugar and prices of *gur* and *khandsari* also remained relatively high owing to short production. Import of foreign sugar have helped in checking any undue rise in the market prices of these commodities.

(c) *Gur* is produced and consumed in the neighbouring countries of Pakistan, Ceylon, Burma etc.

Shri Jhulan Sinha: May I know, if in view of the fact that the scarcity of white sugar in the country has been raising the price of *gur* and *khandsari*, the supply of expected cane to sugar mills is being diverted for purposes of *gur* and *khandsari?*

Dr. P. S. Deshmukh: I could not follow the question. As I have stated in my reply already, scarcity and less production of sugar has laid to a high level of *gur* and *khandsari* prices than would have been the case.

Shri Dabhi: May I know whether there is any prospect of the price of *gur* coming down?

Dr. P. S. Deshmukh: It is difficult to say anything about prospects at the present moment.

Shri N. B. Chowdhury: May I know whether Government are aware that the sugarcane growers in certain places in the south are facing difficulties due to lack of crushing facilities?

Dr. P. S. Deshmukh: I have not heard any such complaint.

DELEGATION FROM EAST GERMANY

***493. Shri Sanganna:** Will the Minister of **Communications** be pleased to state:

(a) whether any Delegation of the East German Ministry for Posts and Tele-Communications headed by a Deputy Minister has been invited by the Indian Postal Administration to Delhi recently; and

(b) if so, the purpose of inviting the Delegation?

The Minister of Communications (Shri Jagjivan Ram): (a) and (b). Heads of all Postal Administrations which are members of the Universal Postal Union were invited to participate in the inauguration of the India Postage Stamp Centenary Celebrations and the International Philatelic Exhibition. The German Delegation, among others, came in response to this invitation.

Shri Sanganna: May I know whether any of these delegations have conveyed to the Government of India any impressions of the working of the system of communications in India and if so, what are they?

Shri Jagjivan Ram: They have not conveyed any formal communication. They came to see me and they said that the celebrations and the Exhibition were a grand success.

SUPPLY OF LOCOMOTIVES BY FOREIGN CONTRACTORS

***494. Shri T. K. Chaudhuri:** Will the Minister of **Railways** be pleased to state:

(a) what are the relevant provisions in the contract for the supply of locomotives by foreign contractors in regard to the inspection of the locomotives to be supplied by them; and

(b) whether it is a fact that due to certain defects in the contract, locomotives of different specifications from those enjoined in the contracts were supplied by these contractors?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) The relevant provision is that the whole contract is to be executed in the most approved, substantial, and workman like manner, to the entire satisfaction of the purchaser or his nominee, who, both personally and by his deputies shall have full power at every stage of progress to inspect the stores, at such times as he may deem fit, and to reject any of the stores of which he may disapprove; and his decision thereon, and on any question of the true intent and meaning of the specification shall be final and conclusive. I am only paraphrasing a clause of the agreement.

(b) No.

Shri T. K. Chaudhuri: May I know whether it is a fact that inspection facilities were recently denied by certain contractor firms in Europe and Government had reasons to believe that the available capacity of these firms were not being utilised properly for our work?

Shri Alagesan: As soon as the goods are produced or even in the stage of production our Inspectors go for inspection. I do not know what particular case my hon. friend has in mind.

Mr. Speaker: Have any opportunities ever been refused by any firm?

Shri Alagesan: No.

FOOD POSITION

*496. **Shri Bhagwat Jha Azad:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) the latest position of *Kharif* crop prospects;

(b) what is the overall food position at present; and

(c) what do the present trends of prices of foodgrains indicate?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) On present estimate, the *kharif* crop prospects may be said to be satisfactory.

(b) Comfortable.

(c) There is no clearly marked trend of prices of foodgrains at present. On the whole they appear to be steady at present levels, and are unlikely to move upwards or downwards to any appreciable extent.

Shri Bhagwat Jha Azad: In reply to part (a), the hon. Minister said that it is satisfactory. May I know whether the hon. Minister is aware that the prospect of *kharif* crop in Bihar is only 10 per cent. and that it has affected the position in Bihar in particular and in the country in general?

Dr. P. S. Deshmukh: This is a statement of the overall production in the country. We are aware that there have been drought conditions in Bihar as well as in some parts of Orissa. But, even there, if we compare the present prices, they are lower than what they were last year. The supply position is also not unsatisfactory because we have ample stocks and if Bihar and Orissa Government want, we can help them.

Shri Bhagwat Jha Azad: In view of the fact that the prospect of *kharif* is *nil* in Bihar,—I do not know about Orissa—what steps have been taken by the Government to meet the food situation in this State which has been worst affected by the floods?

Dr. P. S. Deshmukh: We have already told the State of Bihar that if there are any circumstances justifying any free distribution of food, we will meet 50 per cent. of the cost. We have also given to both these Governments whatever assistance they needed.

Shri G. P. Sinha: May I know whether the total loss of *kharif* crop in Bihar, especially in South Bihar and Chota Nagpur, has been estimated, and whether any demand for relief has been placed by the State Government to the Centre, and if so, the amount of relief that has been sent to the Bihar State?

Dr. P. S. Deshmukh: No specific demand for this purpose has been made.

SHARK LIVER OIL

*497. Shri **V. P. Nayar:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) whether it is a fact that the State Governments of Madras and Bombay in order to compete with others in the sale of Shark liver oil made by them try to obtain the crude Shark liver oil at the lowest possible price and thereby permit indiscriminate fishing of sharks; and

(b) if so, whether Government propose to take any steps for avoiding such unhealthy competition and its consequent evils?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Government of India have no information about any such competition or evidence to suggest that indiscriminate fishing of sharks is taking place.

(b) No.

Shri V. P. Nayar: May I submit that there is a very small error in the question as it is printed, which reads:

"........whether it is a fact that the State Governments of Madras and Bombay in order to compete with other...."?

That is not what I wanted to know. My information is that the Government of Bombay and the Government of Madras compete with each other. May I know whether the hon. Minister has gone through the 'Report of the Pharmaceutical Enquiry Committee, which has special reference to the competition between the Government of Bombay and the Government of Madras in regard to the sale of shark liver oil?

Dr. P. S. Deshmukh: I have not personally seen the Report, but we have made a reference to both these Governments, and have tried to get the information.

Shri V. P. Nayar: May I know whether the hon. Minister is aware that as early as 1945-46, the panel on Fine Chemicals, drugs and pharmaceuticals has reported that there was the danger of indiscriminate shark fisheries and the consequent exhaustion of the most valuable resources of vitamin A by the shark fisheries indulged in by both these Governments?

Dr. P. S. Deshmukh: I was not aware of this.

Shri V. P. Nayar: May I know whether, in view of the problems of nutrition, Government have any scheme in hand by which the vulnerable age groups will get free supplies of shark liver oil to fortify themselves against the attacks of various diseases?

Dr. P. S. Deshmukh: I would like to have notice.

CONDENSED MILK

*502. **Shri Jhulan Sinha:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) whether any research has been carried on at the Indian Dairy Research Institute, Bangalore, on the production of condensed milk under rural conditions; and

(b) if so, the result thereof?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) No systematic work has yet been done on the production of condensed milk under rural conditions but the Institute proposes to take up the work very soon.

(b) Does not arise.

FISH MEAL

***503. Shri Sanganna:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) whether there is a proposal under consideration for the popularisation of 'fish meal' in the country; and

(b) if so, the nature of the proposal?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) There is no such specific proposal under consideration but the general policy of the Government of India is to popularise the use of all organic manures including 'fish meal'.

(b) Does not arise.

Shri S. C. Samanta: May I know whether the fish that are caught by trawlers and are not used for edible purposes are being considered to be used as fish meal, and if so, whether Government have taken any steps in the matter?

Dr. P. S. Deshmukh: I am not aware of any steps that are being taken, but I am sure, if they are not edible, they must be converted into manure, for which there is demand.

Shri S. C. Samanta: May I know whether the surplus fish that are not being sold in the markets will be used for manuring purposes, and for making oils also? Have the Central Government given any direction to the State Governments of Madras and West Bengal to proceed in the matter?

Dr. P. S. Deshmukh: I am not aware of any specific direction. But I am sure it is being used, for I find that there is demand for fish meal even outside, and certain quantities are allowed to be exported also.

COST OF SUGAR-CANE CULTIVATION

***504. Shri T. K. Chaudhuri:** Will the Minister of **Food and Agriculture** be pleased to refer to the replies to the supplementaries on starred question No. 72 asked on the 16th November, 1954 and state:

(a) whether any Expert Committee has been appointed to enquire into the actual cost of production of sugarcane in different States;

(b) whether the State Governments concerned will be associated with the enquiry and if so, in what manner;

(c) whether the enquiry will be on the basis of random Sample-Survey method; and

(d) what steps have been taken to ensure that the views of representative cane-growers' organisations and co-operative societies would be ascertained?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) A three-year scheme for assessing the cost of cultivation of sugarcane in important sugarcane producing States is already in operation from July, 1954, under the Indian Central Sugarcane Committee.

(b) Yes. The Scheme is being implemented in close co-operation with the State Governments and the Field staff of the Scheme is being provided by the State Governments concerned.

(c) Yes.

(d) The views of interested organisations were invited by the Indian Central Sugarcane Committee before formulating the present scheme.

Shri T. K. Chaudhuri: May I know the reasons that impelled Government to refix the price of sugarcane at Rs. 1-7-0 and Rs. 1-5-0 recently, even before the report of this Committee on these schemes has been formulated?

Dr. P. S. Deshmukh: This was done in accordance with a promise made by us to the House, namely that we would like to announce the prices one year before the year of the crop, and the prices we have now declared are not reiteration, but they refer to 1955-56, *i.e.* a year hence.

Shri N. B. Chowdhury: May I know whether the fixation of price at this level will not adversely affect the production of sugarcane?

Dr. P. S. Deshmukh: We feel reasonably sure that it will not.

Shri Shivananjappa: May I know which are the States visited by this Committee so far?

Dr. P. S. Deshmukh: I want notice of the question.

The Minister of Food and Agriculture (Shri A. P. Jain): U.P., Bihar, Punjab, PEPSU, Bombay, Madras and Andhra are the States where the scheme is in operation.

Pandit Munishwar Datt Upadhyay: By what time is the report likely to be submitted?

Dr. P. S. Deshmukh: This is a scheme extending over a period of three years.

Mr. Speaker: When will the report of the Committee be submitted?

Dr. P. S. Deshmukh: Evidently, after that period is over.

Shri V. P. Nayar: May I know whether it is not a fact that consequent on the reduction of sugarcane prices, the total area of cultivation and production under sugarcane has gone down by about 10 lakhs of acres, as admitted in the Progress Report?

Dr. P. S. Deshmukh: We have been consistently refusing to admit that the reduction in the acreage was due to reduction in prices.

Mr. Speaker: We will now go to the other questions. First, we shall take up questions in respect of which authority has been given?

Shri Nanadas: Question No. 448.

Mr. Speaker: First, we shall take up questions of those Members who have been careful enough to give authority; and then, we shall come to the other questions.

Shri Nanadas: It is my own question.

Mr. Speaker: But the hon. Member came late. I shall first give preference to those who were careful to give authority.

Shri Raghavachari: Question No. 444.

POPULATION PROBLEMS

*444. **Shri Raghavachari** (*on behalf of* **Shri Gidwani, Shri S. K. Razmi, and Shri Maganlal Bagdi**): Will the Minster of **Health** be pleased to state:

(a) whether it is a fact that Government have set up a council to promote studies in population problems;

(b) whether any steps have been taken to establish a national training centre at Bombay to organise training programmes in family planning;

(c) whether Government have accepted the recommendations of the Family Planning Research and Programme Committee; and

(d) whether any grants have been made for approved family planning programmes?

The Minister of Health (Rajkumari Amrit Kaur): (a) The establishment of a Council to promote studies in population problems is under consideration.

(b) to (d). Yes.

Shri Raghavachari: Then, there is Question No. 489.

Mr. Speaker: That will come later. If the hon. Member wants to put any supplementaries on this, he may put.

Shri Raghavachari: No supplementaries on this.

Shri Kelappan: I want to put one supplementary. In view of the fact that this family planning has proved to be ineffective in reducing the population, will Government consider the question of stopping any more waste on this account?

Rajkumari Amrit Kaur: I do not admit that there is any waste on any account?

HOUSING SCHEME FOR COAL MINES

447. **Shri Jhulan Sinha** *(on behalf of* **Shri P. C. Bose**): Will the Minister of **Labour** be pleased to state:

(a) the progress so far achieved in building houses for the colliery workers both in public and private sectors of the coal mining industry under the Coal Mines Labour Welfare Fund; and

(b) the number of houses so far built or under construction under the Subsidised Housing Scheme of the above Fund?

The Deputy Minister of Labour (Shri Abid Ali): (a) The Coal Mines Labour Welfare Fund has constructed the following number of houses for colliery workers:—

Public sector	499
Private sector	1614
Total	2113

(b) The number of houses completed as on 31-10-54 was 1547 and the number of houses reported to be under construction on that date was 114.

Shri Jhulan Sinha:. May I know what encouragement has been given to the workers' co-operatives for any such purpose?

Shri Abid Ali: Not through this Fund at present.

Shri T. B. Vittal Rao: May I know what percentage of coal miners have got houses?

Shri Abid Ali: We have taken a census of about 600 collieries. The number of workers employed is 3,17,551. The number of workers not residing at the collieries is 73,755. The number of workers residing with their wives is 47,731. The number of workers residing with their wives and children is 78,000. The number of workers residing at the collieries without their wives and children is about one lakh and six thousand. The total of the last three categories comes to 2,32,129. The number of rooms available at the collieries is 1,14,918.

WRITTEN ANSWERS TO QUESTIONS

TRANSHIPMENT OF COMMODITIES FROM GHATS

*438. **Shri S. N. Das:** Will the Minister of **Railways** be pleased to state:

(a) whether it is a fact that riverine (ghats) points in Bihar in the Ganges have to feed besides North Bihar, some districts in Uttar Pradesh, Assam and North Bengal also, so far as transhipment of coal, cement, iron and stone is concerned;

(b) whether it is also a fact that the total requirements of these articles for these areas are not fully met through these ghats; and

(c) the percentage of increase in the capacity of these ghats during the last five years?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) Yes, except Uttar Pradesh.

(b) Yes.

(c) There has been an overall increase by 17 per cent. since January 1950, in the total capacity of the three ghats put together to carry traffic.

DROUGHT CONDITIONS IN STATES

*442. **Shri D. C. Sharma:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) the names of the States in which famine conditions are prevailing at present due to failure of rains; and

(b) what help has been given to them?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) Famine conditions do not prevail anywhere in the country.

(b) Does not arise.

LOCOMOTIVES FROM ABROAD

***446. Pandit D. N. Tiwary:** Will the Minister of **Railways** be pleased to state:

(a) whether any order for the supply of locomotives was placed with any foreign firm in 1954;

(b) whether the tender accepted was the lowest tender; and

(c) if not, the reasons for not accepting the lowest tender?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Yes.

(b) No.

(c) The reasons, generally, were as below:—

(i) Stock offered not being technically suitable to the specification required;

(ii) Deliveries not being according to our requirement;

(iii) Un-reliability due to lack of previous experience in the manufacture of locomotives.

PAYMENT OF WAGES ACT

***448. Shri Nanadas:** Will the Minister of **Labour** be pleased to state:

(a) whether the provisions of the Payment of Wages Act are being enforced in the Mica industry in the Andhra State:

(b) whether wages are due to the workers from any of the employers in Mica industry in Andhra; and

(c) if so, the total amount due to the workers?

The Minister of Labour (Shri K. K. Desai): (a) Yes.

(b) Yes.

(c) About Rs. 8570.

ELEPHANTIASIS

***449. Shri C. R. Iyyunni:** Will the Minister of **Health** be pleased to state:

(a) the number of people suffering from elephantiasis;

(b) the name of the State that is most affected by it; and

(c) the measures adopted to prevent the disease?

The Minister of Health (Rajkumari Amrit Kaur): (a) No census of persons suffering from elephantiasis has so far been taken.

(b) No statistics are available to show which State is most affected.

(c) A pilot scheme for the control of filariasis, of which elephantiasis is one of the manifestations, on a nation wide scale, has been sanctioned under the First Five Year Plan. Under this scheme Central assistance is to be given to the States where the disease is prevalent, in the shape of material and enquipment for the control of the disease.

रेलवे कर्मचारियों के लिये मकान

***४५० श्री नवल प्रभाकर :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या शकूर बस्ती रेलवे स्टेशन तथा रेलवे जनरल स्टोर में काम करने वाले हरिजन तथा विस्थापित मजदूरों के लिये मकान बनाने की कोई योजना है ; और

(ख) यदि हां, तो वह कब तक पूरी हो जायेगी ?

रेलवे तथा परिवहन मंत्री के सभासचिव (श्री शाहनवाज खां): (क) और (ख) मकानों की व्यवस्था की दृष्टि से दिल्ली-क्षेत्र के कर्मचारी एक इकाई समझे जाते हैं। इसमें अलग-अलग जाति का कोई ध्यान नहीं दिया जाता। इस क्षेत्र में मकान एक निश्चित् कार्य-क्रम के अनुसार बनाये जा रहे हैं।

RAILWAY BOOKING OF FOODGRAINS

*453. **Shri Bishwa Nath Roy:** Will the Minister of **Railways** be pleased to state whether the attention of Government has been drawn to the fact that the cultivators in the colonisation areas of the Tarai in Nainital district (U.P.) where, besides individual farmers, the State Government has got an investment of about a crore of rupees, are forced to suffer economically owing to difficulty in booking of foodgrains from Gokulnagar and Kichha stations on North Eastern Railway to other stations?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): Yes. A complaint was made by the Prag Agricultural Farm, Gokulnagar, in September, 1953 and again in March, 1954, regarding difficulties being experienced in booking of foodgrains from Gokulnagar station. Enquiries made indicate that booking of foodgrains on Government account was freely met, but in the case of bookings on trade account, which fall under a lower priority, in certain cases there was some delay in providing transport. Indents at Gokulnagar and Kichha in recent months have been currently met.

NATIONAL HIGHWAYS

*456. **Shri Bheekha Bhai:** Will the Minister of **Transport** be pleased to state:

(a) whether it is a fact that Government propose to introduce a legislation for the declaration and maintenance of national highways; and

(b) if so, when the proposed Bill will be introduced and to what extent it will affect the present arrangement as to their maintenance?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). It is proposed to introduce legislation as soon as possible under entry 23 in List I of the Seventh Schedule to the Constitution for the declaration of highways as national highways and the administration of such national highways. At present roads accepted by the Government of India as national highways under an agreement with the States are generally maintained by the State Public Works Departments and this arrangement is expected to continue in the future also.

AERODROME AT SHILLONG

*459. **Shri Ibrahim:** Will the Minister of **Communications** be pleased to state:

(a) whether there is any proposal for constructing an aerodrome at Shillong; and

(b) if so, by what time the construction will be completed?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) Yes, Sir.

(b) The preliminary inspection carried out by the Civil Aviation Department has indicated that due to the hilly topography of the area, only two sites at Elephant Falls and Laitlyngkot, which are 6 and 17 miles respectively from Shillong, could possibly be considered for the construction of an aerodrome. These sites are now being surveyed extensively by the Central Public Works Department, and the Meteorological Department has also been instructed to have detailed weather observations taken at these places over an extended period. As a final decision in this regard could be taken only on receipt of their reports, it is not possible to indicate at this stage when the construction of the aerodrome would be completed.

TICKETLESS TRAVELLING

*460. **Shri Radha Raman:** Will the Minister of **Railways** be pleased to state:

(a) whether the suggestion of providing one ticket collector for every two coaches of the important long distance Mail and Express trains has materialized;

(b) if so, the number of ticket collectors appointed on each Railway; and

(c) the number of cases of ticketless travelling detected by these ticket collectors so far?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) The suggestion is being implemented on an experimental basis selecting one long distance Mail or Express train on each Railway.

(b) In the experimental stage no additional ticket collectors or examiners have been appointed and the Travelling Ticket Examiners required for the purpose are being found from the existing staff.

(c) The system has been introduced so far on the Southern, Northern and Central Railways. The numbers of cases detected are:

Railway	Period	No. of cases detected.
Southern	19-11-54 to 22-11-55	61
Northern	18-10-54 to 24 10-54	298

Figures in respect of the Central Railway are not yet available.

The experiment will commence on other Railways shortly.

MEDICAL STAFF IN AGATTI ISLAND

***461. Dr. Rama Rao:** Will the Minister of **Health** be pleased to state:

(a) whether Government are aware that there is no arrangement for a doctor and medical staff on a permanent basis in Agatti Island; and

(b) if so, the steps Government propose to take to provide adequate medical facilities to the people of this Island?

The Minister of Health (Rajkumari Amrit Kaur): (a) Yes.

(b) The question of opening a permanent Government dispensary at Agatti Island is under the consideration of the Government of Madras.

गंगा पर रोपवे

***४६२. श्री आर० एन० सिंह :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि सरकार ताड़ीघाट रेलवे स्टेशन (जिला गाजीपुर में) और गाजीपुर शहर के बीच गंगा पर एक रोपवे बनाने जा रही है ;

(ख) यदि सच है, तो इस योजना पर कितने व्यय की संभावना है , और

(ग) पड़ताल कब तक हो जायेगी ?

रेलवे तथा परिवहन मंत्री के सभासचिव (श्री शाहनवाज खां) : (क) ताड़ीघाट और गाजीपुर के बीच रोपवे से माल लेआने और लेजाने के सम्बन्ध में विचार हो रहा है । लेकिन अभी कोई निर्णय नहीं किया गया है ।

(ख) और (ग) . इस जगह रोपवे की व्यवस्था पर लगभग २४ लाख रुपये की लागत का अनुमान है । अभी तक केवल प्रारंभिक जांच की गयी है, कोई ब्योरेवार सर्वे नहीं हुआ है ।

CHURCH SITE, MANIPUR

***460. Shri Rishang Keishing:** Will the Minister of **Health** be pleased to state:

(a) the number of temples (mandirs) and mosques within the jurisdiction of the Imphal Town Fund;

(b) whether the representatives of the Christian Community of Manipur have approached the Government of Manipur on several occasions for a Church site within the Imphal Town Fund Area; and

(c) if so, what consideration Government have given to their demand?

The Minister of Health (Rajkumari Amrit Kaur): (a) to (c). The information is being collected and will be placed on the Table of the Sabha in due course.

WATER COOLERS AT STATIONS

***469. Th. Jugal Kishore Sinha:** Will the Minister of **Railways** be pleased to state:

(a) whether the water-coolers at various stations on the North Eastern Railways frequently went out of order;

(b) if so, the names of the stations and the period for which they remained out of order; and

(c) the steps taken by Government to put them in working order?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) At some stations, water coolers went out of order for some periods.

(b) A statement is placed on the Table of the House giving this information. [*See* Appendix II, annexure No. 74.]

(c) (i) Stand-by gas cylinders are being provided at Gorakhpur, Samastipur and Izatnagar for meeting emergencies; and

(ii) Refrigerator mechanics have been sanctioned for attending to the defects promptly.

INDIAN SHIPPING

***470. Shri N. M. Lingam:** Will the Minister of **Transport** be pleased to state:

(a) the annual percentage of tea cargo from Calcutta to U.K. given to the Indian shipping companies since 1951;

(b) whether any representations have been received from Indian companies for increasing the share of cargo given to them; and

(c) if so, the decision taken thereon?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) The information is as follows:—

1951	..	16·03
1952	..	14·21
1953	..	16·54
1954 (for 10 months)	..	18·97

(b) and (c). Yes. The matter was recently discussed with the interests concerned who have promised to submit to Government a scheme for allotting an increased percentage of tea cargo to Indian companies. The scheme is awaited.

PASSENGER AMENITIES

***472. Shri M. S. Gurupadaswamy:** Will the Minister of **Railways** be pleased to state:

(a) the number of cloak-rooms constructed on the stations of the Northern Railway during 1952-53, 1953-54 and 1954-55 (till the 30th September);

(b) whether Government are aware that such arrangements do not exist on some of the big stations whereby the passengers are put to much inconvenience; and

(c) if so, the time by which all such stations will be provided with cloak-rooms?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) None, Sir.

(b) and (c). At stations where there are no cloak-rooms, facilities exist for acceptance of such luggage as passengers may like to deposit on recovery of the same charges as are leviable at stations with cloak-rooms.

NATIONAL HIGHWAYS

***473. Shri Ganpati Ram:** Will the Minister of **Transport** be pleased to state:

(a) the total mileage of National Highways maintained, constructed, metalled and remetalled in Uttar Pradesh during the period from the 1st April to the 31st October, 1954;

(b) the share of the State Government; and

(c) the number of new roads constructed in U. P. during 1953-54 and 1954-55?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) and (c). A statement giving the required information is laid on the Table of the Sabha. [*See* Appendix II, annexure No. 75.]

(b) Nil, as the entire expenditure on National Highways is met by the Government of India.

RAILWAY LOCOMOTIVES

***476. Sardar Iqbal Singh:** Will the Minister of **Railways** be pleased to state:

(a) the cost of locomotives manufactured at the Chittaranjan Locomotive Factory; and

(b) how it compares with the cost of locomotives imported from other countries?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). The cost of a locomotive produced in the Chittaranjan Locomotive Works is now Rs. 5·32 lakhs approximately, excluding interest on the capital cost of the factory and the estimated cost of a similar type of a locomotive ordered recently from the foreign countries is Rs. 5·25 to 5·50 lakhs.

MOKAMEH BRIDGE

***480.** { **Shri S. N. Das:**
Shri Anirudha Sinha:
Th. Jugal Kishore Sinha.

Will the Minister of **Railways** be pleased to state:

(a) whether there has been any change in the programme for the construction of Mokameh Bridge and other allied works;

(b) if so, what changes have been made;

(c) whether the work is proceeding according to schedule; and

(d) if not, the reasons therefor?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) No. Sir.

(b) Does not arise.

(c) There has been a slight setback in the progress of collection of pitching stone only.

(d) The contractors for pitching stone failed to maintain the scheduled supply.

AYURVEDIC SYSTEM OF MEDICIN

***484. Shri D. C. Sharma:** Will the Minister of **Health** be pleased to refer to the reply given to starred question No. 333 on the 1st September, 1954 and state:

(a) which of the research projects on Ayurvedic system of medicine have been completed; and

(b) whether any new research projects have been undertaken?

The Minister of Health (Rajkumari Amrit Kaur): (a) and (b). Two statements giving the required information are laid on the Table of the Sabha . [*See* Appendix II, annexure No. 76.]

रेलवे मजदूरों के लिये इलाज संबंधी व्यवस्था

***४८७. श्री नवल प्रभाकर :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) दिल्ली में १९५४ में रेलवे-मजदूरों के लिये इलाज संबंधी व्यवस्था पर कितना खर्च किया गया ; और

(ख) इससे कितने आदमियों को लाभ पहुंचा ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेशन): (क) १९५४ में उत्तर रेल प्रशासन लगभग २२,००० रुपये महीने की दर से खर्च कर रहा हैं ।

(ख) लगभग १०,००० कर्मचारियों और उनके परिवारों को लाभ पहुंच रहा हैं ।

TRAINING OF NURSES

***489. Shri Gidwani:** Will the Minister of **Health** be pleased to state:

(a) what is the total number of institutes under the control of the

Centre for the training of nurses, midwives, nurse-*dais* and *dais*;

(b) the total capacity of such institutions;

(c) whether this capacity is sufficient to meet the needs of the country; and

(d) if not, what steps are proposed to be taken to increase this capacity?

The Minister of Health (Rajkumari Amrit Kaur): (a) Four.

(b) A statement containing the required information is laid on the Table of the Sabha. [*See* Appendix II, annexure No. 77.]

(c) No.

(d) The Central institutions are intended to supplement the output of these personnel trained in the institutions in the States. The Government of India have sanctioned a scheme of financial assistance to State and non-Government institutions for training of Lady Health Visitors, Midwives and Auxiliary Nurse-Midwives in order to mitigate the shortage of these personnel.

ROLLING STOCK

***491. Shri Ibrahim**: Will the Minister of **Railways** be pleased to state:

(a) the number of locomotives to be received by India from various countries under the Colombo Plan (country-wise); and

(b) the conditions attached to it if any?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) 120, from Canada.

(b) It is an aid on 100 per cent. grant basis.

रेलवे पुल

***४६२. श्री आर० एन० सिंह** : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या गोमती पर बनारस और छपरा के बीच में और टौंस पर चितबड़ागांव और फेफना के बीच में पुल बनाने का सरकार का कोई विचार हैं ; और

(ख) यदि हां, तो इस में कितना रुपया व्यय होगा ?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) No, Sir. Railway Bridges exist at these sites.

(b) Does not arise.

DAMAGE TO RAILWAY LINES

***495. Sardar Iqbal Singh**: Will the Minister of **Railways** be pleased to state:

(a) the names of the railway lines which have so far been affected by recent floods and rains;

(b) the names of the places where they have been damaged; and

(c) the estimated amount required for their repairs?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) to (c). It is regretted that it has not been possible to collect the information relating to all Railways. This is being collected and will be laid on the Table of the Lok Sabha in due course.

TRAVEL FACILITIES

***498. Shri D. C. Sharma**: Will the Minister of **Transport** be pleased to refer to the reply given to starred question No. 370 on the 1st September, 1954 and state:

(a) whether study in travel trends has been completed;

(b) whether a uniform pattern for hostel classification has been adopted; and

(c) whether any decision has been taken with regard to the collection of travel statistics?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) to (c). These points are still under consideration.

SURGEONS FROM AUSTRALIA

*500. **Shri C. R. Iyyunni:** Will the Minister of **Health** be pleased to state:

(a) whether any surgeons, expert in plastic work, have come from Australia under the Colombo Plan;

(b) the value of this contribution in terms of money; and

(c) the number of days for which they stayed in India?

The Minister of Health (Rajkumari Amrit Kaur): (a) No, but an Australian Plastic Surgeon has been asked for under the Colombo Plan.

(b) and (c). Do not arise.

MEDICAL COLLEGES IN INDIA

*501. **Shri Gidwani:** Will the Minister of **Health** be pleased to state:

(a) the total number of medical colleges in India;

(b) what is the capacity of these colleges;

(c) whether it is sufficient for the needs of the country; and

(d) if not, what steps are proposed to be taken for augmenting this capacity?

The Minister of Health (Rajkumari Amrit Kaur): (a) 34.

(b) 2735.

(c) No.

(d) Proposals for starting new medical colleges and of expanding existing ones are under consideration of some of the State Governments, as well as the Central Government.

चावल के स्टाक का खराब होना

*५०५. **श्री नवल प्रभाकर :** क्या खाद्य तथा कृषि मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच हैं कि सरकारी गोदामों में पड़ा हुआ बहुत सा चावल खराब हो रहा हैं ;

(ख) यदि सच हैं, तो इस वर्ष अब तक कितना चावल बरबाद हो गया हैं ; और

(ग) इस में कितने का घाटा हुआ हैं ?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) No.

(b) and (c). Do not arise.

NAVEGOAN BAND

390. **Shri N. A. Borkar:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) the total amount sanctioned by Government for the construction of "Navegoan Band" in the Bhandara District of Madhya Pradesh;

(b) when the work is likely to be completed; and

(c) the total acres of land that will come under irrigation by this project?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) Rs. 15,00,000/- as loan.

(b) March, 1956.

(c) 10,000 acres.

P. & T. WORKSHOP COMMITTEE

391. **Shri S. N. Das:** Will the Minister of **Communications** be pleased to state:

(a) the extent to which the recommendations of the Workshop Committee and the suggestions made by Dr. Trone for the rationalisation of production and for increasing the efficiency of the Posts and Telegraphs workshops and Indian Telephone Industries Ltd., have been implemented;

(b) the efforts made to examine the results achieved by such implementation; and

(c) the recommendations which are yet to be implemented?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) The recommendations of the Workshops Committee and the suggestions made by Dr. Trone in his report mainly relate to Posts and Telegraphs Workshops at Alipore, Jabalpur and Bombay. The suggestions and recommendations have been accepted and most of them have been implemented.

(b) There has been an overall improvement in the efficiency and production of the Workshops.

(c) Recommendations relating to shifting of the Workshops at Bombay and Alipore and establishment of the Foundry at Jabalpur are yet to be implemented.

बिना टिकट यात्रा

३९२. **श्री एम० एल० द्विवेदी** : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि रेल पर यात्रा करते समय १ जनवरी, १९४७ और ३१ अक्टूबर, १९५४ के बीच विद्यार्थियों ने कितनी बार अनुशासन हीनता का बर्ताव किया और हिंसा का सहारा लिया ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेशन): प्राप्त सूचना के आधार पर पता चलता हैं कि १ जनवरी, १९४७ और ३१ अक्टूबर, १९५४ के बीच विद्यार्थियों ने २८७ बार अनुचित व्यवहार किया और बिना टिकट यात्रा करते हुए हिंसा का आश्रय लिया ।

DELHI TRANSPORT SERVICE

393. **Shri T. B. Vittal Rao:** Will the Minister of **Transport** be pleased to state:

(a) how many new buses have been added between the 1st April and the 31st October, 1954 to the fleet of buses of D.T.S.;

(b) how many buses have been condemned and put off the road during the same period; and

(c) what steps are being taken to augment the frequency of service?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) 50.

(b) Nil.

(c) On a number of routes, frequency is being increased with effect from 1st December 1954. 140 new buses have been ordered. As and when these are received, the frequency will be improved further according to traffic requirements.

NATIONAL MARITIME BOARD

394. **Shri D. C. Sharma:** Will th Minister of **Transport** be pleased t state:

(a) whether the national maritime board has been constituted; and

(b) if so, what are its functions?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) No.

(b) Does not arise.

TICKETLESS TRAVELLING

395. **Shri D. C. Sharma:** Will the Minister of **Railways** be pleased to state:

(a) the expenditure incurred during the period from the 1st January to the 31st October, 1954 on special drives for the detection of ticketless travellers on various Railways; and

(b) the amount collected as a result of these drives?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b).

Railways	Expenditure incurred	Amount collected
	Rs.	Rs.
Central	1,03,985	1,90,322
Eastern	1,04,361	1,85,018
Northern	2,70,272*	4,14,261*
Southern	2,035	74,887
Western	1,76,700	3,70,960
North Esatern	1,86,960	3,13,234
TOTAL	8,44,313*	15,48,682*

*Approximate

B. C. G. ORGANISATIONS

396. **Shri Krishnacharya Joshi:** Will the Minister of **Health** be pleased to state:

(a) whether the Government of India have asked the States Governments to set up B.C.G. organisations in their States; and

(b) if so, the number of States which have set up such organisations?

The Minister of Health (Rajkumari Amrit Kaur): (a) Yes.

(b) Twenty-five State Governments have so far set up B.C.G. organisations in their States.

MINIMUM WAGES (CENTRAL) RULES, 1950

397. **Th. Lakshman Singh Charak:** Will the Minister of **Labour** be pleased to state:

(a) the amount realised so far from the employees under Sub-Rule (3) of Rule 21 of the Minimum Wages (Central) Rules 1950;

(b) whether the amount so realised, is being utilized for the benefit of the employees in accordance with the provisions of Sub-Rule (5) of Rule 21; and

(c) if so, in what manner?

The Minister of Labour (Shri K. K. Desai): (a) to (c). The information is being collected and will be placed on the Table of the Sabha in due course.

RADIO-PHOTO SERVICE

398. **Shri Krishnacharya Joshi:**
Shri Radha Raman:
Shri Naval Prabhakar:

Will the Minister of **Communications** be pleased to state how the Radio-photo Service is working between Bombay and London and other European cities?

The Deputy Minister of Communications (Shri Raj Bahadur): The direct Radio-photo service between Bombay and London which was formally opened on 29th April, 1948 has since been extended to the following European countries:—

(1) Belgium,
(2) Denmark,
(3) Finland,
(4) Germany (West),
(5) Greece,
(6) Italy,
(7) Norway,
(8) Portugal,
(9) Sween, and
(10) Switzerland.

The service is working satisfactorily.

AIR MAIL SERVICE

399. **Shri Krishnacharya Joshi:** Will the Minister of **Communications** be pleased to state:

(a) whether Government propose to extend the Air Mail and All-Up service to other important cities also; and

(b) if so, when this proposal will be implemented?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) Yes.

(b) As and when these cities are linked by air, provided the conveyance of mails by air from and to these cities results in expedition in delivery to mails.

NON-SCHEDULED AIR SERVICE

400. **Shri S. N. Das:** Will the Minister of **Communications** be pleased to state:

(a) the terms and conditions on which a non-scheduled air service by a private firm known as Air Taxies India, New Delhi has been sanctioned to operate; and

(b) whether such an air service has begun its operation?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) The permit given to the Air Taxies, India, New Delhi is valid for a period of one year with effect from the 11th October, 1954, and is subject to compliance with Indian Aircraft Rules 1937 and all other laws in force from time to time. The following additional conditions which are usually applicable to non-scheduled permits are also applicable in this case:—

(i) No place shall be used for landing or departure other than an aerodrome approved or licensed according to the regulations in force in the territory in which it is situated:

Provided that when an aerodrome, which is not approved or licensed according to the regulations in force is used for landing or departure, the operator or the pilot shall satisfy himself that the aerodrome is suitable for the proposed flight in all respects and will not in any way jeopardize the safety of the aircraft.

(ii) Single-engined aircraft shall not be used for public transport of passengers at night, except within a radius of 10 miles of the aerodrome of departure.

(iii) Monthly returns of operations shall be furnished to the Director General of Civil Aviation in forms prescribed by him for the purpose.

(iv) All aircraft operating under this permit, shall be flown by a person holding a Public Transport Pilot's licence ('B' licence).

(v) The operator shall ensure that no advertisement is made in any manner whatsoever in respect of any non-scheduled air transport service operated under this permit.

(vi) No non-scheduled flight shall be operated with any aircraft registered in India between India and any place outside India except with special prior permission in writing from the Director General of Civil Aviation.

(vii) The operator shall submit to the Director General of Civil Aviation a schedule of rates and other charges for chartering different types of aircraft in his possession within seven days of the grant of this permit or renewal thereof. Any alterations or modifications to the schedule, as and when made, shall be communicated to the Director General of Civil Aviation, New Delhi, telegraphically or by air mail.

(viii) The prior written permission of the Director General of Civil Aviation or a Controller of Aerodromes shall be obtained in respect of each individual flight operated under the authority of this permit, if a landing is to be made at any point other than the aerodrome of departure.

(ix) The operator of a non-scheduled air transport service to whom this permit has been granted shall be responsible for ensuring that no goods prohibited from being carried under any law for the time being in force are carried in aircraft operated by the said operator under this permit.

(x) The right, granted under this permit, to operate air transport services other than scheduled air transport services, is for the benefit of the person named in the permit, who shall not transfer or assign the same in any manner, including a contract of hire whether oral or in writing whereby the hirer of his aircraft becomes or is made the real operator of the services.

(xi) (a) No aircraft except with the written prior permission of the Director General of Civil Aviation shall be operated under the authority of this permit, if the crew of the aircraft are not in the regular employment of the holder of the permit. For this purpose crew employed on hourly, daily or part time basis shall be considered as not being in regular employment.

(b) A permit holder shall send to the Director General of Civil Aviation a list of all aircrew employed on aircraft to be operated under this permit and shall notify immediately any changes in such list.

(xii) The holder of this permit shall not employ any pilot who has been serving an air transport company operating a scheduled air service unless either a period of six months has elapsed since the pilot left the employ of the said company or the previous written consent of the Director General of Civil Aviation has been obtained.

(xiii) The permit shall be liable to cancellation if the permit holder runs heavy debits or is unable to meet his day to day liabilities.

(xiv) Permit shall not entitle the carriage of traffic to or from any aerodrome served by a scheduled service, except when the scheduled operator is unable to carry the same and issues a 'No Objection Certificate' to this effect.

(xv) (a) No aircraft with maximum all-up weight exceeding 5,000 lbs. shall be operated under this permit.

(b) No aircraft with maximum all-up weight below 5,000 lbs. other than those which may be endorsed on the permit by the Director General of Civil Aviation mentioned below shall be operated under this permit.

(xvi) Permit shall not entitle the carriage of traffic to or from any aerodrome in the States of Assam, Tripura, Manipur and North-East Frontier Agency.

(xvii) Permit shall not entitle the carriage of traffic to or from Balurghat and Cooch-Bihar Aerodromes.

(xviii) Operations to and within the neighbouring countries *e.g.* Nepal, Pakistan, Ceylon and Afghanistan shall not be permitted except on the production of 'No Objection' certificate from the Indian Airlines Corporation.

(xix) A copy of this permit shall be carried in every aircraft when operating thereunder.

(xx) Any breach of any of the above conditions, or of any conditions which may hereafter be imposed in regard to this permit, shall render this permit liable to cancellation forthwith and without notice.

(b) No, Sir.

RAILWAY EMPLOYEES

401. **Shri Bibhuti Mishra:** Will the Minister of **Railways** be pleased to state:

(a) whether it is a fact that a disparity exists in the initial pay of Assistant Surgeons (Grade II) possessing M.B., B.S. qualification in different zones of the Railways; and

(b) if so, the reasons therefor?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Yes, Sir.

(b) Certain Railways serving States, where Licentiate Courses in medicine had been abolished and only medical graduates are available, experienced difficulties in recruitment of Assistant Surgeons Grade II. A higher starting pay for medical graduates recruited as Assistant Surgeons grade II was granted on these Railways and not on others.

AYURVEDIC DRUGS

402. **Shri C. R. Iyyunni:** Will the Minister of **Health** be pleased to state:

(a) the number of Ayurvedic drugs that have been analysed; and

(b) their ingredients and other attributes noted in the laboratories?

The Minister of Health (Rajkumari Amrit Kaur): (a) and (b). The required information is being collected from the State Governments and will be laid on the Table of the Sabha in due course.

CONFERENCE OF RAILWAY EXPERTS IN JAPAN

403. **Shri Krishnacharya Joshi:**
Pandit S. C. Mishra:

Will the Minister of **Railways** be pleased to state:

(a) whether Railway Experts from India, Britain, Russia, U.S.A. and twelve other countries met at a Conference of the Economic Commission for Asia and Far East at Tokyo in the middle of October and discussed the development of Asian Railways; and

(b) if so, the main decisions taken at the Conference?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Yes, Sir.

(b) The official report has not yet been received from the headquarters of the Economic Commission for Asia and the Far East but according to the report received from our representative the main subjects discussed were concerned with:—

(1) Railway Training Centre for operating and signalling officials at Lahore.

(2) Improved methods of track construction and maintenance.

(3) Locomotive boiler treatment.

(4) Rail Cars.

(5) Diesel Locomotives, and

(6) Prevention and speedy disposal of claims.

GOKULNAGAR AND KICHHA STATIONS

404. **Shri Bishwa Nath Roy:** Will the Minister of **Railways** be pleased to state whether there is any proposal for extension of the stations at Gokulnagar and Kichha on the North Eastern Railway and for providing the same amenities and facilities to the passengers there as are available at similar other stations?

The Deputy Minister of Railways and Transport (Shri Alagesan): No, Sir. There is only a proposal for raising of platform at Kichha station to be taken up during the current financial year.

EMPLOYMENT EXCHANGES IN RAJASTHAN

405. **Shri Karni Singhji:** Will the Minister of **Labour** be pleased to state:

(a) the number of undergraduates and graduates who were registered in the Employment Exchanges in Rajasthan during the last three years ending with the 30th June, 1954;

(b) the number of vacancies notified to the Employment Exchanges there during the above period; and

(c) the number of vacancies among them which were filled up on the recommendation of Employment Exchanges there?

The Minister of Labour (Shri K. K. Desai): (a) to (c). Information is available from October 1952 only and has been furnished to end of June, 1954 in a statement which is placed on the Table of the House. [*See* Appendix II, annexure No. 78.]

IMPORT DUTY ON SUGAR

406. **Shri K. C. Sodhia:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) the total amount of import duty collected on sugar during (i) 1953-54 and (ii) during the current year up-to-date;

(b) the rate of duty per maund;

(c) whether all the imported sugar is the product of sugar-cane; and

(d) if not, the name of the other materials from which sugar is being extracted?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) (i) Rs. 3·73 crores.

(ii) Rs. 10·81 crores, upto 15th November, 1954

(b) (i) Rs. 5/2/3 from 22nd June, 1953 to 5th February, 1954

(ii) Rs. 8/1/4 from 6th February, 1954, onwards.

(c) No.

(d) Beet.

RAILWAY EARNINGS

407. Shri K. C. Sodhia: Will the Minister of **Railways** be pleased to state:

(a) the total amount realised during (i) 1953-54 and (ii) from the 1st April to the 31st October, 1954 by Railway Administrations from public auction of (i) perishable and (ii) non-perishable goods;

(b) the total amount of Railway charges on these goods;

(c) whether any amounts were paid to the owners; and

(d) if so, how much?

The Deputy Minister of Railways and Transport (Shri Alagesan): A statement giving the required information is attached. [*See* Appendix II, annexure No. 79.]

R. M. S. POSTAL DIVISION

408. Shri Lakshmidhar Jena: Will the Minister of **Communications** be pleased to state:

(a) how many postal divisions constitute the Orissa Postal Circle;

(b) whether there is any R.M.S. Postal Division in Orissa;

(c) if so, where it is situated;

(d) if not, whether Government propose to provide one such division there; and

(e) if so, when?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) 4 *viz.* Cuttack, Sambalpur, Berhampur (Ganjam) and Balasore.

(b) and (c). One R.M.S. Division *viz.* 'N' Division the headquarters of which is situated in Calcutta.

(d) and (e). Do not arise.

भारतीय चीनी टैकनोलॉजी संस्था

४०६. श्री आर० एन० सिंह : क्या खाद्य तथा कृषि मंत्री यह बताने की कृपा करेंगे कि :

(क) भारतीय चीनी टैकनोलॉजी संस्था में इस समय अनुसंधान करने वाले कितने विद्यार्थी हैं ,

(ख) संस्था में भरती के क्या नियम हैं ,

(ग) क्या इन विद्यार्थियों को केंद्रीय या राज्य सरकारें कुछ वेतन या छात्रवृत्तियां भी देती हैं ; और

(घ) यदि हां, तो केंद्रीय सरकार कितना देती हैं और राज्य सरकारें कितना ?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) Ten.

(b) Admission is subject to possession of certain basic qualifications prescribed for each subject. Selection is made by a Board constituted for the purpose. Practical training for two seasons in a sugar factory before or after the course is necessary for fellowship students.

(c) and (d). No pay or stipend is given to students by the Central Government. Two scholarships of Rs. 50/- each are however, awarded by the U.P. Government to fellowship students from U.P.

RAIL-BUS ACCIDENT

411. Shri S. N. Das: Will the Minister of **Railways** be pleased to state:

(a) whether it is a fact that a bus collided with engine of a ballast train at Rajabhatkhwa level-crossing on the 30th October 1954, resulting in the death of five persons;

(b) if so, the circumstances in which this accident took place; and

(c) the result of enquiry if any, held?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). At about 17·20 hours on 29th October, 1954 not on 31st October, 1954 as stated in the Question while empty Ballast Train No. 4 was passing over a level crossing at mile 93/10-11 between Garopara and Rajabhatkhawa stations on the Pandu Region of the North-Eastern Railway, a Motor bus came along from the road and collided with the engine of the ballast train. 5 persons in the bus were killed.

(c) The Government Inspector of Railways held his statutory enquiry into this accident and his provisional finding is that it was caused by careless driving on the part of the driver of the motor bus.

PROCUREMENT OF ROLLING STOCK

412. **Shri T. K. Chaudhuri:** Will the Minister of Railways be pleased to state the number of broad and metre gauge locomotives ordered so far from the following countries together with the contracted dates of delivery:

(i) U.S.A.;

(ii) Canada;

(iii) Great Britain;

(iv) West Germany; and

(v) Other European countries?

The Deputy Minister of Railways and Transport (Shri Alagesan): The period, for which the information asked for, has not been specified in the question. A statement giving the required information, since 1948, is placed on the Table of the House. [*See* Appendix II, annexure No. 80.]

LOCOMOTIVES

413. **Shri Gidwani:** Will the Minister of Railways be pleased to state:

(a) the number of locomotives manufactured in the country during the current year till the 30th September, 1954; and

(b) the estimated production for the current year?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) 70 Locomotives from 1st April, 1954 to 30th September, 1954.

(b) The planned production for 1954-55 is 122 but this is expected to be exceeded.

QUARTERS FOR RAILWAY STAFF

414. **Th. Jugal Kishore Sinha:** Will the Minister of Railways be pleased to state:

(a) the total number of quarters constructed for the Railway Staff during the current year till the 30th September 1954;

(b) how many of these are for class III and class IV employees;

(c) how many employees are still without quarters; and

(d) by what time all the employees will be provided with residential accommodation?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) 4,865 approximate.

(b) 1,734 for Class III staff and 3,119 for class IV staff.

(c) and (d). About 6 lakhs employees are not housed in Railway quarters. The Railway policy is to provide quarters for essential staff who are likely to be called out for duty at any time and for staff at stations where there is a serious shortage of private accommodation. It is expected that with the provision of a lakh of quarters in the next 10 years the position would be substantially relieved.

RECRUITMENT IN LOCO WORKSHOPS

415. **Shri Dhusiya:** Will the Minister of Railways be pleased to state:

(a) the names of the various Loco Workshops on the North Eastern Railway where recruitments to the following posts has been made during 1954 so far;

(i) Apprentice Mechanics; (ii) Train Examiners; (iii) Permanent Way Inspectors; (iv) Trade Apprentices; and (v) T.I. Apprentices;

(b) the number of candidates selected in each Loco workshop; and

(c) the number of Scheduled Castes and Scheduled Tribes among them?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Apprentice Permanent Way Inspectors and Traffic Apprentices are recruited for the Civil Engineering and Traffic Departments respectively. Only Apprentice Mechanics, Apprentice Train Examiners and Trade Apprentices are recruited for the Mechanical Engineering Department and of these the former two categories are recruited for the North Eastern Railway as a whole. Only Trade Apprentices are recruited Workshop-wise to the Railway Loco Workshops at Gorakhpur, Izatnagar, Dibrugarh and Bongaigaon.

(b) and (c). The information required is given below:—

Location of Loco Workshop	Category	Candidates selected during 1954		
		Total Number	Scheduled Castes	Scheduled Tribes
	Recruitment for the entire N. E. Railway			
	Apprentice Mechanics.	10	1	1
	Apprentice Train Examiners.	15	2	
	Recruitment Workshop-wise			
Gorakhpur	Trade Apprentices	(Recruitment is in hand).		
Izatnagar	,, ,,	(Recruitment is in hand).		
Dibrugarh	,, ,,	19	..	..
Bongaigaon	,, ,,	4	..	..

रेलगाड़ियों का लेट चलना

४१६. **श्री राधे लाल व्यास :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) १ जनवरी से २१ अक्टूबर, १९५४ के बीच बड़ौदा जाने वाली मथुरा-बड़ौदा स्थानीय सवारी गाड़ियां कितनी बार नागदा स्टेशन पर लेट पहुंचीं और औसतन वे कितने घंटे लेट रहीं ; और

(ख) कितने बार यात्रियों को नागदा स्टेशन पर उज्जैन जाने वाली रेल गाड़ियां नहीं मिल सकीं ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेशन): (क) ३५२ अप मथुरा-बड़ौदा सवारी गाड़ी २१५ बार नागदा स्टेशन पर लेट पहुंची, इसके लेट पहुंचने का औसतन समय १ घंटा १९ मिनट रहा ।

(ख) ३५२ अप, १०६ डाउन रतलाम-उज्जैन-भोपाल सवारी गाड़ी को नागदा में १०० बार मेल न दे सकी ।

३५२ अप और साथ की ३५१ डाउन गाड़ियों के ठीक समय से चलने की व्यवस्था सन्तोषजनक नहीं रही है, इसमें सुधार करने के उद्देश्य से इन गाड़ियों के साथ जाने के लिए विशेष कर्मचारी रखे गये हैं । इन गाड़ियों के समय को बदलने का प्रश्न भी विचाराधीन है ।

KUHI RAILWAY STATION

417. **Shri N. A. Borkar:** Will the Minister of **Railways** be pleased to state:

(a) whether it is a fact that the people of Kuhi area, District Nagpur, made a representation to Government for construction of a Waiting Hall at Kuhi station; and

(b) if so, the decision taken thereon?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) No, Sir.

(b) Does not arise.

RAILWAY STAFF QUARTERS

418. **Shri A. K. Gopalan:** Will the Minister of **Railways** be pleased to state:

(a) whether residential quarters for the Railway Auditor was built at a cost of Rs. 40,000 in West Hill in Kozhikode;

(b) if so, when the construction was completed and how long it has been lying vacant; and

(c) the reason for its not having been occupied till now by the officer for whom it was constructed?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) One quarter was built at West Hill near Kozhikode for the Travelling Inspector of Accounts, Calicut at an estimated cost of Rs. 18,970.

(b) and (c). The building was ready for occupation in July, 1954. For personal reasons the present Travelling Inspector of Accounts has not yet occupied the quarter, though rent for the quarter is being recovered from him since August, 1954.

OVER-BRIDGE AT AMRAOTI RAILWAY STATION

419. **Shri K. G. Deshmukh:** Will the Minister of **Railways** be pleased to refer to the reply to starred question No. 367 asked on the 10th September, 1954 and state:

(a) whether the proposal to construct an over-bridge near Amraoti Railway Station on the Central Railway has since been finalised; and

(b) if so, when the said work is likely to start?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Not yet, Sir.

(b) It is proposed to commence the work during the current financial year as soon as the Madhya Pradesh Government approve of the proposal and agree to undertake the construction of the approches of the over-bridge.

RAILWAY BRIDGE

420. **Shri Ganpati Ram:** Will the Minister of **Railways** be pleased to state:

(a) whether any request has been received for the construction of an overbridge or underbridge at Sheopur Station on the Banaras-Lucknow Road; and

(b) whether Government contemplate to consider the matter and if so, how long it will take to take a decision on this matter?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) No, Sir.

(b) Does not arise.

TELEGRAPHIC FACILITIES

421. **Shri Ganpati Ram:** Will the Minister of **Communications** be pleased to state:

(a) whether it is a fact that telegraph facilities are provided in some new Post-Offices in the rural areas of Banaras District; and

(b) if so, the number of such village post offices?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) and (b). Telegraph Offices have been opened during 1953-54 at two rural Post Offices, namely, Jakhini and

Sewapuri. Post offices at both these stations were however opened prior to 1953-54.

SULTANPUR-JAFARABAD RAIL LINK

422. **Shri Ganpati Ram:** Will the Minister of Railways be pleased to state:

(a) how far the construction work of Sultanpur-Jafarabad Railway line has been completed;

(b) how long it will take to open this line for regular traffic; and

(c) the expenditure incurred so far out of the amount sanctioned in the current budget?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) The work on the construction of Sultanpur-Jafarabad Railway line has been completed except for stone ballasting of the line.

(b) The line has been opened to passenger traffic on 27th November, 1954.

(c) The amount allotted in the budget of the current year is expected to be fully spent during the current financial year.

RAILWAY BOILERS

423. **Sardar Iqbal Singh:** Will the Minister of Railways be pleased to state:

(a) the total number and value of boilers imported into India during the year 1953-54;

(b) the number of boilers manufactured at various workshops in India;

(c) the names of the factories manufacturing boilers in India;

(d) the average cost of the production of such boilers; and

(e) how it compares with the cost of boilers imported from abroad?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Indian Railways including the Chittaranjan Locomotive Works imported 90 boilers during 1953-54 at a cost of Rs. 98,15,000.

(b) 62 excluding those built by TELCO and used in the locomotives they manufactured.

(c) Locomotives boilers are being manufactured by the following firms:—

(i) Chittaranjan Locomotive Works.

(ii) Tata Locomotive & Engineering Co. Ltd.

(iii) Messrs. Textile Machinery Corporation Ltd., Calcutta.

(d) the cost of production varies according to the type of boilers and is from one to two and a half lakhs. This will be reduced as production is fully established.

(e) Similar types of boilers were not imported during the year 1953-54 but the cost of production of those manufactured in India was about one and a half to twice the imported cost.

TUBERCULOSIS

424. **Shri N. B. Chowdhury:** Will the Minister of Health be pleased to state:

(a) the steps taken by Government during the last seven years to combat the menace of Tuberculosis; and

(b) whether Government will lay on the Table of the House a Statement showing the figures of incidence of the disease, year by year, during this period?

The Minister of Health (Rajkumari Amrit Kaur): (a) A statement showing the steps taken by Government is placed on the Table of the Sabha. [*See* Appendix II, annexure No. 81.]

(b) Actual figures are not available.

UNEMPLOYED LABOURERS

425. **Shri Ganpati Ram:** Will the Minister of Labour be pleased to state:

(a) the comparative figures of mine labourers in various categories of mines during the last five years; and

(b) the measures taken to absorb the unemployed labourers in the various mines?

The Minister of Labour (Shri K. K. Desai): (a) A statement showing the comparative figures of the daily average number of persons working in and about important categories of mines regulated by the Indian Mines Act for the years 1949—53 (1951—53 in the case of gold mines) is placed on the Table of the Sabha. [*See* Appendix II, annexure No. 82.]

(b) The Indian Mines Act was extended to the mines in Part B States with effect from the 1st April 1951, and, therefore, taking 1951 year as basis, the enclosed statement shows that there has been a small increase in the total employment in the years 1952 and 1953. In the circumstances there is no reason to believe that there has been any fall in employment calling for special measures.

रेलवे कर्मचारी

४२५. **श्री डामर** : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) राज्य सरकार से तबादले पर आने वाले मध्य भारत के कितने व्यक्ति रेलवे में काम कर रहे हैं, और

(ख) क्या रेलवे शासन ने तबादले पर आने वाले इन व्यक्तियों के ऊपर कुछ शर्तें लगाई हैं ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेशन): (क) और (ख). सूचना मंगायी जा रही है और यथा समय सभा में प्रस्तुत की जायगी ।

INDEX

TO

LOK SABHA DEBATES—PART I

Vol. VI No. 10

29th NOVEMBER, 1954

A

ACCIDENT(S)—
Question *re*—
Rail-bus ——. 678-79.

ACCOMMODATION—
Question *re*—
Quarters for Railway staff. 680.

ACHUTHAN, SHRI—
Question (Supplementary) by—
Names of Railway Stations. 632.

AERODROME(S)—
Question *re*—
—— at Shillong. 656.

AGATTI ISLAND—
Question *re*—
Medical staff in ——. 657.

AGREEMENT(S)—
Question *re*—
India-China Trade ——. 626-27.

AGRICULTURAL PRICES INQUIRY COMMITTEE—
Question *re*—
Agricultural Prices Inquiry Committee. 625.

AID(S)—
Question *re*—
Rolling stock. 663.

AIR MAIL(S)—
Question *re*—
—— Service. 670.

AIR SERVICE(S)—
Question *re*—
Non-Scheduled ——. 670—74.

ALL INDIA MEDICAL INSTITUTE—
Question *re*—
Institute for higher medical education. 630-31.

AMRAOTI—
Question *re*—
Over-bridge at —— Railways Station. 683-84.

ANDHRA—
Question *re*—
Payment of Wages Act. 653.

ASSAM—
Question *re*—
Transhipment of commodities from Ghats. 652.

AUCTION(S)—
Question *re*—
Railway earnings. 677.

AUSTRALIA—
Question *re*—
Surgeons from ——. 665.

AYURVEDIC SYSTEM—
Question *re*—
—— of medicine. 662.

AZAD, SHRI BHAGWAT JHA—
Question by—
Food position. 643—45.
Theft in trains. 625-26.

B

B.C.G.—
Question *re*—
—— Organisations. 668-69.

BAGDI, SHRI MAGANLAL—
Question by—
Population problems. 650-51.

BANARAS—
  Question *re*—
    Telegraphic facilities. 684-85.

BANARAS-LUCKNOW ROAD—
  Question *re*—
    Railway bridge. 684.

BANGALORE—
  Question *re*—
    Condensed milk. 646.

BARMAN, SHRI—
  Question (Supplementary) by—
    Assam rail link. 633.

BENGAL, NORTH—
  Question *re*—
    Transhipment of commodities from ghats. 652.

BENGAL, WEST—
  Question *re*—
    Fish meal. 647.

BHANDARA—
  Question *re*—
    Navegoan *Band*. 666.

BHAVNAGAR-TARAPUR RAILWAY LINE—
  Question *re*—
    Bhavnagar-Tarapur Railway Line. 618-19.

BHEEKHA BHAI, SHRI—
  Question by—
    National Highways. 655-56.

BOARD(S)—
  Question *re*—
    National Maritime Board. 668.

BOMBAY—
  Question *re*—
    Haffkine Institute, ——. 614—16.
    Population problems. 650-51.
    Radiophoto Service. 669.
    Shark liver oil. 645-46.

BORKAR, SHRI N. A.—
  Question by—
    Kuhi Railway Station. 683.
    Navegoan *Band*. 666.
    Transhipment of Commodities from Ghats. 652.

BRAJESHWAR PRASAD, SHRI—
  Question by—
    Corruption amongst Railway employees. 634-35.

BREEDING—
  Question *re*—
    —— of buffaloes. 633-34.

BUSES—
  Question *re*—
    Delhi Transport Service. 667.

C

CALCUTTA—
  Question *re*—
    —— Port. 629-30.
    R.M.S. Postal Division. 677-78.

CALICUT—
  Question *re*—
    Railway Staff Quarters. 683.

CARGO—
  Question *re*—
    Indian shipping. 659-60.

CATTLE—
  Question *re*—
    Breeding of buffaloes. 633-34.

CHARAK, SHRI LAKSHMAN SINGH—
  Question by—
    Minimum Wages (Central) Rules, 1950. 669.
  Question (Supplementary) by—
    Populationl control. 618.

CHAUDHARY, SHRI G. L.—
  Question by—
    Khandsari sugar. 634..

CHAUDHURI, SHRI T. K.—
  Question by—
    Calcutta Port. 629-30.
    Cost of sugarcane cultivation. 647—50.
    Procurement of rolling stock. 679.
    Supply of locomotives by foreign contractors. 642-43.

CHETTIAR, SHRI T.S.A.—
Question (Supplementary) by—
Institute for higher medical education. 630.

CHITTARANJAN LOCOMOTIVE WORKS—
Question *re*—
Railway boilers. 685-86.
Railway locomotives. 661.

CHOWDHURY, SHRI N. B. —
Question by—
Tuberculosis. 686.

Question (Supplementary) by—
Cost of sugar-cane cultivation. 648-49.
Gur. 642.

CHURCH—
Question *re*—
—— site, Manipur. 658.

CIVIL AVIATION—
Question *re*—
Aerodrome at Shillong. 656.
Non-Scheduled Air Service. 670—74.

COAL MINES—
Question *re*—
Housing scheme for ——. 651-52.

COAL MINES LABOUR WELFARE FUND—
Question *re*—
Housing scheme for coal mines. 651-52.

COLOMBO PLAN—
Question *re*—
Rolling stock. 663.
Surgeons from Australia. 665.

COMMITTEE(S)—
Question *re*—
Agricultural Prices Inquiry ——. 625.
P. & T. Workshop ——. 666-67.
See also "Estimates Committee".

COMMODITY(IES)—
Question *re*—
Transhipment of —— from ghats. 652.

COMMUNICATION(S)—
Question *re*—
Assam rail link. 632-33.

CONCESSION(S)—
Question *re*—
Zonal wapsi ticket. 620-21.
(जोनल वापसी टिकट)

CONFERENCE(S)—
Question *re*—
—— of Railway Experts in Japan. 675.

CONSTRUCTION—
Question *re*—
Bhavnagar-Tarapur Railway Line. 618-19.
Mokameh Bridge. 621—23.
Navegoan *Band*. 666.
Over-bridge at Amraoti Railway Station. 683-84.
P. & T. Training Centre, Hyderabad. 637-38.
Workshop for Delhi Transport Service. 616-17.

CONSUMPTION—
Question *re*—
Gur. 640-42.

CONTRACTORS—
Question *re*—
Supply of locomotives by foreign ——. 642-43.

CONTRIBUTORY HEALTH SERVICE SCHEME—
Question *re*—
Contributory Health Service Scheme. 619-20.

CORRUPTION—
Question *re*—
—— amongst Railway employees. 634-35.

CULPRITS—
Question *re*—
Theft in P. & T. Directorate, Orissa. 628.

CULTIVATION—
Question *re*—
Cost of sugar-cane ——. 647—50.

D

DABHI, SHRI—
Question by—
Bhavnagar-Tarapur Railway Line. 618-19.
Question (Supplementary) by—
Gur. 641.

DAMAGE(S)—
Question *re*—
—— to Railway lines. 664.

DAMAR, SHRI—
Question by—
Railway karmchari. 688.
(रेलवे कर्मचारी)

DAS, SHRI S. N.—
Question by—
Mokameh Bridge. 661-62.
Non-Scheduled Air Service. 670—74.
P. & T. Workshop Committee. 666-67.
Rail-bus accident. 678-79.
Transhipment of commodities from ghats. 652.

DELEGATION(S)—
Question *re*—
—— from East Germany. 642.

DELHI—
Question *re*—
Population control. 617-18.

DELHI TRANSPORT SERVICE—
Question *re*—
Delhi Transport Service. 667.
Workshop for —— 616-17.

DESHMUKH, SHRI K. G.—
Question by—
Over-bridge at Amraoti Railway Station. 683-84.

DHUSIYA, SHRI—
Question by—
Recruitment in Loco Workshops 681.

DISEASE(S)—
Question *re*—
Elephantiasis. 654.
Tuberculosis. 686.

DISPENSARY(IES)—
Question *re*—
Medical staff in Agatti Island. 657.

DRUGS—
Question *re*—
Haffkine Institute, Bombay. 614—16.

DRUG(S), AYURVEDIC—
Question *re*—
Ayurvedic drugs. 675.

DWIVEDI, SHRI M. L.—
Question by—
Bina-ticket yatra. 667.
(बिना टिकट यात्रा)

E

EAST GERMANY—
See "Germany, East".

ECONOMIC COMMISSION FOR ASIA AND FAR EAST—
Question *re*—
Conference of Railway Experts in Japan. 625.

EDUCATION, MEDICAL—
Question *re*—
Institute for higher ——. 630-31.

ELEPHANTIASIS—
Question *re*—
Elephantiasis. 654.

EMPLOYMENT EXCHANGE(S)—
Question *re*—
—— in Rajasthan. 676.

ESTIMATES COMMITTEE—
Question *re*—
Breeding of buffaloes. 633-34.

EUROPE—
Question *re*—
Supply of locomotives by foreign contractors. 642-43.

EXHIBITION—
  Question *re*—
    International —— on Tourism. 613-14.

EXPENDITURE—
  Question *re*—
    Mokameh Bridge. 621—23.
    Names of Railway Stations. 631-32.
    National Highways. 660-61.
    P. & T. Training Centre, Hyderabad. 637-38.
    Railway majdooron ke liye ilaj sambandhi vyavastha. 662.
    (रेलवे मजदूरों के लिए इलाज सम्बन्धी व्यवस्था)
    Railway pul. 663-64.
    (रेलवे पुल)
    Sultanpur-Jafarabad rail link. 685.
    Ticketless travelling. 668.

EXPORT(S)—
  Question *re*—
    India-China Trade Agreement. 626-27.

F

FACILITY(IES)—
  Question *re*—
    Telegraphic facilities. 684-85.
    Travel ——. 664.

FAMILY PLANNING—
  Question *re*—
    Population problems. 650-51.

FAMINE—
  Question *re*—
    Drought conditions in States. 652-53.

FISH MEAL—
  Question *re*—
    Fish meal. 647.

FIVE YEAR PLAN, FIRST—
  Question *re*—
    Elephantiasis. 654.
    Institute for higher medical education. 630-31.
    Khandsari sugar. 634.

FLOOD(S)—
  Question *re*—
    Assam rail link. 632-33.
    Damage to Railway lines. 664.

FOODGRAIN(S)—
  Question *re*—
    Food position. 634—45.
    Railway booking. 655.

FOREIGN COUNTRY(IES)—
  Question *re*—
    Procurement of rolling stock. 679.

G

GANGES (RIVER)—
  Question *re*—
    Ganga par ropeway. 658.
    (गंगा पर रोपवे)

GANPATI RAM, SHRI—
  Question by—
    National Highways. 660-61.
    Railway bridge. 684.
    Sultanpur-Jafarabad rail link. 685.
    Telegraphic facilities. 684-85.
    Unemployed labourers. 686-87.

GERMANY, EAST—
  Question *re*—
    Delegations from ——. 642.

GHAT(S)—
  Question *re*—
    Transhipment of commodities from ——. 652.

GHAZIPUR—
  Question *re*—
    Ganga par ropeway. 658.
    (गंगा पर रोपवे)

GIDWANI, SHRI—
  Question by—
    Locomotives. 679-80.
    Medical Colleges in India. 665.
    Population problems. 650-51.
    Training of nurses. 662-63.

GODOWN(S)—
  Question *re*—
    Chawal ke stock ka kharab hona. 665-66.
    (चावल के स्टाक का खराब होना)

GOKULNAGAR—
Question *re*—
—— and Kichha Stations. 676.

GOPALAN, SHRI A. K.—
Question by—
Railway Staff Quarters. 683.

GOVIND DAS, SETH—
Question by—
Railway karmchariyon ko mileage bhatta. 640.
(रेलवे कर्मचारियों को माइलेज भत्ता)
Zonal wapsi ticket.
(जोनल वापसी टिकट)
620-21.

Question (Supplementary) by—
Institute for higher medical education. 631.

***GUR*—**
Question *re*—
Gur. 640—42.

GURUPADASWAMY, SHRI M. S.—
Question by—
Passenger amenities. 660.

H

HAFFKINE INSTITUTE, BOMBAY—
Question *re*—
Haffkine Institute, Bombay. 614—16.
Manufacture of vaccine. 636-37.

HOSTEL(S)—
Question *re*—
Travel facilities. 664.

HOUSING SCHEME(S)—
Question *re*—
—— for coal mines. 651-52.

HUKAM SINGH, SARDAR—
Question by—
International Exhibition on Tourism. 613-14.
Wireless Transmitter Licences. 636.

HUKAM SINGH, SARDAR—*contd.*
Quesion (Supplementary) by—
Contributory Health Service Scheme. 620.

HYDERABAD—
Question *re*—
P. & T. Training Centre, ——. 637-38.

I

IBRAHIM, SHRI—
Question by—
Aerodrome at Shillong. 656.
Rolling stock. 663.

IMPERIAL CHEMICALS INDUSTRIES, MESSRS.—
Question *re*—
Haffkine Institute, Bombay. 614—16.

IMPHAL TOWN FUND—
Question *re*—
Church site, Manipur. 658.

IMPORT(S)—
Question *re*—
India-China Trade Agreement. 626-27.

IMPORT DUTY—
Question *re*—
—— on sugar. 676-77.

INDIA-CHINA TRADE AGREEMENT—
Question *re*—
India-China Trade Agreement. 626-27.

INDIA POSTAGE STAMP CENTENARY CELEBRATIONS—
Question *re*—
Delegation from East Germany. 642.

INDIAN AIRCRAFT RULES, 1937—
Question *re*—
Non-Scheduled Air Service. 670—74.

INDIAN CENTRAL SUGARCANE COMMITTEE—
  Question *re*—
    Cost of sugar-cane cultivation. 647—50.

INDIAN DAIRY RESEARCH INSTITUTE—
  Question *re*—
    Condensed milk. 646.

INDIAN MINES ACT—
  Question *re*—
    Unemployed labourers. 686-87.

INDIAN SHIPPING—
  Question *re*—
    Indian shipping. 659-60.

INDIAN STATES—
  See "States, former Indian".

INDIAN SUGAR TECHNOLOGICAL INSTITUTE—
  Question *re*—
    Bharatiya cheeni technology sanstha. 678.
    (भारतीय चीनी टैकनीलौजी संस्था)

INDIAN TELEPHONE INDUSTRIES—
  Question *re*—
    P. & T. Workshop Committee. 666-67.

INSTITUTE(S)—
  Question *re*—
    —— for higher medical education. 630-31.

INSTITUTION(S)—
  Question *re*—
    Training of nurses. 662-63.

INTERNATIONAL EXHIBITION ON TOURISM—
  Question *re*—
    International Exhibition on Tourism. 613-14.

INTERNATIONAL PHILATELIC EXHIBITION—
  Question *re*—
    Delegation from East Germany. 642.

IQBAL SINGH, SARDAR—
  Question by—
    Damage to Railway lines. 664.
    Railway boilers. 685-86.
    Railway locomotives. 661.

IRRIGATION—
  Question *re*—
    Navegoan *Band*. 666.

IYYUNNI, SHRI C. R.—
  Question by—
    Ayurvedic drugs. 675.
    Elephantiasis. 654.
    Surgeons from Australia. 665.

J

JAFARABAD—
  Question *re*—
    Sultanpur-Rail Link. 685.

JAMMU AND KASHMIR—
  Question *re*—
    Railway connections with Kashmir. 627-28.

JAMUAWAN—
  Question *re*—
    Theft in trains. 625-26.

JAPAN—
  Question *re*—
    Conference of Railway Experts in ——. 675.

JENA, SHRI LAKSHMIDHAR—
  Question by—
    R.M.S. Postal Division. 677-78.

JOSHI, SHRI KRISHNACHARYA—
  Question by—
    Air Mail Service. 670.
    B.C.G. Organisations. 668-69.
    Conference of Railway Experts in Japan. 675.
    Population control. 617-18.
    Radiophoto service. 669.
    Railways of former Indian States. 638-39.

K

KASHMIR—
  Question *re*—
    Railway connections with—— 628-29.

- KARNI SINGH JI, SHRI—
  - Question by—
    - Employment Exchanges in Rajasthan. 676.
  - Question (Supplementary) by—
    - Railways of former Indian States. 639.
- KELAPPAN, SHRI—
  - Question (Supplementary) by—
    - Contributory Health Service Scheme. 620.
    - Population problems. 650.
    - Names of Railway Stations. 632.
- KESHAVAIENGAR, SHRI—
  - Question by—
    - Railway connections with Kashmir. 627-28.
- *KHANDSARI*—
  - Question *re*—
    - *Gur*. 640-42.
- KICHHA—
  - Question *re*—
    - Gokulnagar and Kichha Stations. 676.
- KUHI RAILWAY STATION—
  - Question *re*—
    - Kuhi Railway Station. 683.

L

- LABORATORY(IES)—
  - Question *re*—
    - Ayurvedic drugs. 675.
- LABOUR—
  - Question *re*—
    - Minimum Wages (Central) Rules, 1950. 669.
    - Payment of Wages Act. 653.
    - Railway —— Union. 623—25.
    - Unemployed labourers. 986-87.
- LADY HEALTH VISITOR(S)—
  - Question *re*—
    - Training of nurses. 662-63.
- LICENCE(S)—
  - Question *re*—
    - Wireless transmitter ——. 634.
- LINGAM, SHRI N. M.—
  - Question by—
    - Indian shipping. 659-60.
- LONDON—
  - Question *re*—
    - Radiophoto Service. 669.
- LOSS—
  - Question *re*—
    - *Chawal ke stock ka kharab hona.* (चावल के स्टाक का खराब होना) 665-66.

M

- MADHYA BHARAT—
  - Question *re*—
    - *Railway karmchari*. 688. (रेलवे कर्मचारी)
- MADHYA PRADESH—
  - Question *re*—
    - Over-bridge at Amraoti Railway Station. 683-84.
- MADRAS—
  - Question *re*—
    - Fish meal. 647.
    - Medical staff in Agatti Island. 657.
    - Shark liver oil. 645-46.
- MANIPUR—
  - Question *re*—
    - Church site, ——. 658.
- MANUFACTURE—
  - Question *re*—
    - —— of vaccine. 636-37.
- MANURE—
  - Question *re*—
    - Fish meal. 647.
- MARWAD RAILWAY STATION—
  - Question *re*—
    - *Railway karmchariyon ko mileage bhatta*. 640. (रेलवे कर्मचारियों को माइलेज भत्ता)
- MEDICAL AID—
  - Question *re*—
    - *Railway majdooron ke liye ilaj sambandhi vyavastha*. 662. (रेलवे कर्मचारियों के लिए इलाज सम्बन्धी व्यवस्था)

MEDICAL COLLEGE(S)—

Question ***re*—**
—— in India. 665.

MEDICAL EDUCATION—

See "Education, Medical".

MEDICAL STAFF—

Question ***re*—**
—— in Agatti Island. **657.**

MEDICINE(S)—

Question *re*—
Ayurvedic system of ——. **662.**
Manufacture of vaccine. 636-37.
See also "Drug(s)".

MICA INDUSTRY—

Question *re*—
Payment of Wages Act. 653.

MILK—

Question *re*—
Condensed ——. 646.

MINIMUM WAGES (CENTRAL) RULES, 1950.—

Question *re*—
Minimum Wages (Central) Rules, 1950. 669.

MISHRA, SHRI BIBHUTI—

Question by—
Railway employees. 675.

MISHRA, PANDIT S. C.—

Question by—
Conference of Railway Experts in Japan. 675.

MOKAMEH BRIDGE—

Question *re*—
Mokameh Bridge. 621—23, 661-62.

MOSQUE(S)—

Question *re*—
Church site, Manipur. 658.

MUKERJEE, SHRI H. N.—

Question by—
Agricultural Prices Inquiry Committee. 625.

MUSSOORIE—

Question *re*—
International Exhibition on Tourism. 613-14.

MYSORE—

Question *re*—
Population control. 617-18.

N

NAGDA RAILWAY STATION—

See "Railway Station(s)".

NAGPUR—

Question *re*—
Kuhi Railway Station. 683.

NAINITAL—

Question *re*—
Railway booking of food-grains. 655.

NAMBIAR, SHRI—

Question by—
Railway Labour Union. 623—25.

Question (Supplementary) by—
Corruption amongst Railway employees. 635.

NANADAS, SHRI—

Question by—
Payment of Wages Act. 653.

NARASIMHAN, SHRI C. R.—

Question by—
Breeding of buffaloes. 633-34.

NATIONAL HIGHWAYS—

Question *re*—
National Highways. 655-56, 660-61.

NATIONAL MARITIME BOARD—

Question *re*—
National Maritime Board. 668.

NAVEGOAN *BAND*—

Question *re*—
Navegoan *Band*. 666.

NAYAR, SHRI V. P.—

Question by—
Haffkine Institute, Bombay 614—16.
Manufacture of vaccine. 636-37.
Population control. 618.
Shark liver oil. 645-46.

Question (Supplementary) by—
Cost of sugar-cane cultivation 649.

NORTH BENGAL—

See "Bengal, North".

NORTH EASTERN RAILWAY—
See "Railway, North Eastern".

NURSES—
Question *re*—
Training of ——. 662-63.

Q

OIL(S)—
Question *re*—
Shark liver ——. 645-46.

ORISSA—
Question *re*—
Theft in P. & T. Directorate. ——. 628.

ORISSA POSTAL CIRCLE—
Question *re*—
R.M.S. Postal Division. 677-78.

R

POPULATION—
Question *re*—
—— control. 617-18.
—— problems. 650-51.

PORT(S)—
Question *re*—
Calcutta ——. 629-30.

POSTAL SERVICE—
Question *re*—
Air Mail Service. 670.

POSTS AND TELEGRAPHS—
Question *re*—
Telegraphic facilities. 684-85.
Theft in P. & T. Directorate, Orissa. 628.

POSTS AND TELEGRAPHS TRAINING CENTRE, HYDERABAD—
Question *re*—
P. & T. Training Centre, Hyderabad. 637-38.

POSTS AND TELEGRAPHS WORKSHOP COMMITTEE—
Question *re*—
P. & T. Workshop Committee. 666-67.

PRABHAKAR, SHRI NAVAL—
Question by—
Chawal ke stock ka kharab hona.
(चावल के स्टाक का खराब होना) 665-66.
Radiophoto service. 669.
Railway karmchariyon ke liye makan.
(रेलवे कर्मचारियों के लिये मकान) 654.
Railway majdooron ke liye ilaj sambandhi vyavastha.
(रेलवे मजदूरों के लिये इलाज सम्बन्धी व्यवस्था) 662

PRICE(S)—
Question *re*—
Food position. 643-45.

PROCUREMENT—
Question *re*—
—— of rolling stock. 629.

PRODUCTION—
Question *re*—
Condensed milk. 646.
Cost of sugar cane cultivation. 647—50.
Gur. 640—42.
Khandsari sugar. 634.
Locomotives. 679-80.
Railway boilers. 685-86.

PUBLIC WORKS DEPARTMENT—
Question *re*—
National Highways. 655-56.

O

QUARTER(S)—
Question *re*—
Railway staff ——. 688.
—— for Railway staff. 686.

P

RADHA RAMAN, SHRI —
Question by—
Radiophoto service. 669.
Ticketless travelling. 656-57.

RADIOPHOTO—
Question *re*—
—— Service. 669.

RAGHAVACHARI, SHRI—
Question by—
Population problems. 650-51.

RAGHAVAIAH, SHRI—
Question (Supplementary) by—
Names of Railway Stations. 632.

RAGHUBIR SINGH, CH.—
Question by—
Contributory Health Service Scheme. 619-20.

RAILWAY(S)—
Question *re*—
—— connections with Kashmir. 627-28.
—— employees. 670-74.
Railway karmchari.
(रेलवे कर्मचारी)
—— of former Indian States. 638-39.
Ticketless travelling. 656-57.
Zonal wapsi ticket.
(जोनल वापसी टिकट)
620-21.

RAILWAY BOILER(S)—
Question *re*—
Railway boilers. 685-86.

RAILWAY BRIDGE(S)—
Question *re*—
Mokameh Bridge. 621—23. 661.
Over-bridge at Amraoti Railway Station. 683-84.
Railway bridge. 684.
Railway pul.
(रेलवे पुल) 663-64.

RAILWAY EARNINGS—
Question *re*—
Railway earnings. 677.

RAILWAY EMPLOYEE(S)—
Question *re*—
Corruption amongst ——. 634-35.
Quarters for Railway staff. 680.
Railway employees. 670-74.
Railway karmchari.
(रेलवे कर्मचारी) 688.

RAILWAY EMPLOYEE(S)—*contd.*
Question *re*—contd.
Railway karmchariyon ke liye makan.
(रेलवे कर्मचारियों के लिये मकान) 654.
Railway karmchariyon ko mileage bhatta.
(रेलवे कर्मचारियों को माइलेज भत्ता) 640.
Railway majdooron ke liye elaj sambandhi Vyavastha.
(रेलवे मजदूरों के लिये इलाज सम्बन्धी व्यवस्था) 662.
Railway staff quarters. 683.

RAILWAY EXPERT(S)—
Question *re*—
Conference of —— in Japan. 675.

RAILWAY LABOUR UNION—
Question *re*—
Railway Labour Union. 623—25.

RAILWAY LINE(S)—
Question *re*—
Assam Rail Link. 632-33.
Bhavnagar-Tarapur ——. 618-19.
Damage to ——. 664.

RAILWAY LOCO WORKSHOP(S)—
Question *re*—
Recruitment in Loco Workshops 681.

RAILWAY LOCOMOTIVE(S)—
Question *re*—
Locomotives. 679-80.
Locomotives from abroad. 653.
Procurement of rolling stock. 629.
Railway locomotives. 661.
Rolling stock. 663.
Supply of locomotives by foreign contractors. 642-43.

RAILWAY MAIL SERVICE—
Question *re*—
—— Postal Division. 677-78.

RAILWAY MILEAGE ALLOWANCE(S)—
Question *re*—
Railway karmchariyon ko mileage bhatta.
(रेलवे कर्मचारियों को माइलेज भत्ता)

RAILWAY, NORTHERN—
Question *re*—
Passenger amenities. 660.

RAILWAY, NORTH EASTERN—
  Question *re*—
    Assam Rail Link. 632-33.
    Gokulnagar and Kichha Stations. 676.
    Rail-bus accident. 628.
    Railway booking of foodgrains. 655.
    Recruitment in Loco Workshops. 681.
    Water coolers at stations. 659.

RAILWAY OFFICIAL(S)—
  Question *re*—
    Corruption amongst Railway employees. 634-35.

RAILWAY PASSENGER AMENITY (IES)—
  Question *re*—
    Passenger amenities. 660.

RAILWAY ROLLING STOCK—
  Question *re*—
    Procurement of rolling stock. 679.

RAILWAY STATION(S)—
  Question *re*—
    Gokulnagar and Kichha Stations. 676.
    Kuhi ——. 683.
    Names of ——. 631-32.
    Over-bridge at Amraoti ——. 683.
    Passenger amenities. 660.
    Railgariyon ka late chalna.
    (रेलगाड़ियों को लेट चलना) 681-82.
    Railway bridge. 684.
    Railway karmchariyon ke liye makan.
    (रेलवे कर्मचारियों के लिये मकान) 654.
    Water coolers at stations. 659.

RAILWAY TICKET—
  Question *re*—
    Bina-ticket yatra.
    (बिना टिकट यात्रा) 667.
    Ticketless travelling. 656-57. 668.
    Zonal wapsi ticket.
    (जोनल वापसी टिकट) 620- 21.

RAILWAY TRAIN(S)—
  Question re—
    Theft in trains. 625-26.
    Railgariyon ka late chalna.
    (रेलगाड़ियों का लेट चलना) 681-82.

RAILWAY TRAINING CENTRE—
  Question *re*—
    Conference of Railway Experts in Japan. 625.

RAILWAY WAITING ROOM—
  Question *re*—
    Kuhi Railway Station. 683.

RAJABHAT KHWA—
  Question *re*—
    Rail-bus accident. 628-29.

RAJASTHAN—
  Question *re*—
    Employment Exchanges in——. 676.

RAO, DR. RAMA—
  Question by—
    Medical staff in Agatti Island. 657.

RAO, SHRI T. B. VITTAL—
  Question by—
    Delhi Transport Service. 667.
    P. & T. Training Centre, Hyderabad. 637-38.
    Workshop for Delhi Transport Service. 616-17.
  Question (Supplementary) by—
    Corruption amongst Railway employees. 635.
    Housing scheme for coal mines. 651.
    Railway connections with Kashmir. 628.
    Railway Labour Union. 624.
    Railways of former Indian States. 639.

RAZMI, SHRI S. K.—
- Question by—
  - Population problems. 650-51.

RECOMMENDATION(S)—
- Question *re*—
  - Agricultural Prices Inquiry Committee. 625.
  - Breeding of buffaloes. 633-34.
  - P. & T. Workshop Committee. 666-67.

RECRUITMENT—
- Question *re*—
  - Employment Exchanges in Rajasthan. 676.
  - Railway employees. 670—74.
  - —— in Loco Workshops. 681.

REPORT—
- Question *re*—
  - Agricultural Prices Inquiry Committee. 625.
  - Population control. 617-18.

REPRESENTATION(S)—
- Question *re*—
  - Bhavnagar-Tarapur Railway Line. 618-19.
  - Indian shipping. 659-60.

RETURN RAILWAY TICKET(S)—
- *See* "Railway Ticket(s)".

RICE—
- Question *re*—
  - *Chawal ke stock ka kharab hona.* (चावल के स्टाक का खराब होना) 665-66.
  - India-China Trade Agreement. 626-27.

RISHANG KEISHING, SHRI—
- Question by—
  - Church site, Manipur. 658.

RIVER(S)—
- Question *re*—
  - Calcutta Port. 629-30.

RIVER, GANGA—
- Question *re*—
  - *Ganga par ropeway.* (गंगा पर रोपवे) 658.

ROLLING STOCK—
- *See* "Railway Rolling Stock."

ROY, SHRI BISHWA NATH—
- Question by—
  - Gokulnagar and Kichha Stations. 676.
  - Railway booking of foodgrains. 655.

RULES—
- Question *re*—
  - Minimum Wages (Central) ——, 1950. 669.

S

SAHA, SHRI MEGHNAD—
- Question (Supplementary) by —
  - Calcutta Port. 630.

SAMANTA, SHRI S. C.—
- Question (Supplementary) by—
  - Fish meal. 647.

SANGANNA, SHRI—
- Question by—
  - Delegation from East Germany. 642.
  - Fish meal. 647.
  - Theft in P. & T. Directorate, Orissa. 628.

SCHEDULED CASTE(S)—
- Question *re*—
  - Recruitment in Loco Workshops. 681.

SCHEDULED TRIBE(S)—
- Question *re*—
  - Recruitment in Loco Workshops. 681.

SCHEME(S)—
- Question by—
  - Contributory Health Service ——. 619-20.
  - *Railway karmchariyon ke liye makan.* (रेलवे कर्मचारियों के लिये मकान) 654.

SCHOLARSHIP(S)—
- *Bharatiya cheeni technology sanstha* (भारतीय चीनी टैक्नालोजी संस्था) 628.

SHAKUR BASTI RAILWAY STATION—
  Question *re*—
    Railway karmchariyon ke liye makan.
    (रेलवे कर्मचारियों के लिये मकान) 654.

SHARK LIVER OIL—
  Question *re*—
    Shark liver oil. 645-46.

SHARMA, SHRI D. C.—
  Question by—
    Ayurvedic system of medicine. 662.
    Drought conditions in States. 652-53.
    National Maritime Board. 668.
    Ticketless travelling. 668.
    Travel facilities. 664.

SHEOPUR—
  Question *re*—
    Railway bridge. 664.

SHILLONG—
  Question *re*—
    Aerodrome at ——. 656.

SHIVANANJAPPA, SHRI—
  Question (Supplementary) by—
    Cost of sugar-cane cultivation. 649.

SINGH, SHRI L. JOGESWAR—
  Question by—
    Assam rail link. 632-33.

SINGH, SHRI R. N.—
  Question by—
    Bharatiya cheeni technology sanstha.
    (भारतीय चीनी टैकन लौजी संस्था)
    Ganga par ropeway.
    (गंगा पर रोपवे) 658.
    Railway pul.
    (रेलवे पुल) 663-64.

SINGH, SHRI RANDAMAN—
  Question by—
    Institute for higher medical education. 630-31.

SINHA, SHRI ANIRUDHA—
  Question by—
    Mokameh Bridge. 661-62.

SINHA, SHRI G. P.—
  Question (Supplementary) by—
    Food position. 645.

SINHA, SHRI JHULAN—
  Question by—
    Condensed milk. 646.
    Gur. 640—42.
    Housing scheme for coal mines. 651-52.
    Mokameh Bridge. 621-23.

SINHA, SHRIMATI TARKESHWARI—
  Question by—
    India-China Trade Agreement. 626-27.
  Question (Supplementary) by—
    Mokameh Bridge. 622-23.

SINHA, TH. JUGAL KISHORE—
  Question by—
    Mokameh Bridge. 661-62.
    Quarters for Railway staff. 680.
    Water coolers at stations. 659.

SODHIA, SHRI K. C.—
  Question by—
    Import duty on sugar. 676-77.
    Railway earnings. 677.

STATE(S)—
  Question *re*—
    B.C.G. Organisations. 668-69.

STATES, FORMER INDIAN—
  Question *re*—
    Railways of ——. 638-39.

STATES. PART B—
  Question *re*—
    Unemployed labourers. 686-87.

STATISTICS—
  Question *re*—
    Elephantiasis. 654.
    Travel facilities. 664.

STUDENT(S)—
Question *re*—
Bharatyia cheeni technology sanstha. 678.
भारतीय चोनी टैक्नालोजी संस्था)
Bina-ticket yatra. 666.
(बिना टिकट यात्रा)

SUGAR—
Question *re*—
Gur. 640-42.
Import duty on ——. 676-77.
Khandsari——.634.

SUGAR-CANE—
Question *re*—
Cost of —— cultivation. 647—50.

SULTANPUR—
Question *re*—
Jafarabad rail link. 685.

SURGEON —
Question *re*—
—— from Australia. 665.

SURGEONS, ASSISTANT—
Question *re*—
Railway employees. 670—74.

SURVEY—
Question *re*—
Cost of sugar-cane cultivation. 647—50.

T

TARIGHAT—
Question *re*—
Ganga par ropeway. 658.
(गंगा पर रोपवे)

TEMPLE(S)—
Question *re*—
Church site, Manipur. 658.

THEFT(S)—
Question *re*—
—— in P. & T. Directorate, Orissa. 628.
—— in trains. 625-26.

THOMAS, SHRI A. M.—
Question (Supplementary) by—
Railway Labour Union. 624.

TIWARY, PANDIT D. N.—
Question by—
Locomotives from abroad. 653.

TOURIST(S)—
Question *re*—
International Exhibition on Tourism. 613-14.

TRAFFIC—
Question *re*—
Delhi Transport Service. 667.
Sultanpur-Jafarabad rail link. 685.

TRAINING—
Question *re*—
—— of nurses. 662-63.

TRAINING CENTRE—
Question *re*—
P. & T. ——, Hyderabad. 637-38.

TRANSPORT—
Question *re*—
—— of commodities from ghats. 652.

TRONE, DR.
Question *re*—
P. & T. Workshop Committee. 666-67.

TUBERCULOSIS—
Question *re*—
Tuberculosis. 686.

U

UDAIPUR RAILWAY STATION—
Question *re*—
Railway karmchariyon ko mileage bhatta.
(रेलवे कर्मचारियों को माइलेज भत्ता) 640.

UNEMPLOYMENT—
Question *re*—
Unemployed labourers. 686-87.

UNIVERSAL POSTAL UNION—
Question *re*—
Delegation from East Germany. 642.

UPADHYAY, PANDIT MUNISHWAR DATT—
  Question (Supplementary) by—
    Cost of sugar-cane cultivation. 649.
    Railway karmchariyon ko mileage bhatta.
    (रेलवे कर्मचारियों को माइलेज भत्ता) 640.

UTTAR PRADESH—
  Question *re*—
    National Highways. 660-61.
    Transhipment of commodities from ghats. 652.

U

VACCINE—
  Question *re*—
    Manufacture of ——. 636-37.

VEERASWAMY, SHRI—
  Question by—
    Names of Railway Stations. 631-32.

VYAS, SHRI RADHE LAL—
  Question by—
    Railgariyon ka late chalna.
    (रेलगाड़ियों का लेट चलना)

W

WAGES—
  Question *re*—
    Minimum —— (Central) Rules, 1950. 669.

WATER COOLERS—
  Question *re*—
    —— at stations. 659.

WAZIRGANJ—
  Question *re*—
    Theft in trains. 625-26.

WEST BENGAL—
  See "Bengal, West."

WIRELESS TRANSMITTER(S)—
  Question *re*—
    —— licences. 634.

WORKSHOP(S)—
  Question *re*—
    —— for Delhi Transport Service. 616-17.

LOK SABHA DEBATES Dated....27.11.2014

(Part II—Proceedings other than Questions and Answers)

LOK SABHA

Monday, 29th November, 1954

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

12 NOON

MOTIONS FOR ADJOURNMENT

(i) DETENTION OF POLITICAL PRISONERS IN ANDHRA

(i) USE OF DUM DUM AERODROME BY BRITISH MILITARY AIRCRAFT

Mr. Speaker: I have received notice of an Adjournment Motion. The subject is "the continued detention in the jails of Andhra State, in the context of the coming General Elections, of political prisoners, numbering about three hundred, sentenced in connection with the Wasteland and Toddy Tappers' satyagraha in Andhra".

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): I have no information on this subject, but I am prepared, of course, to inquire, to find out and draw the attention of the authorities in Andhra to this. But from the motion itself, it appears that certain persons were convicted for, presumably, certain infringements of the law. Now, whether any leniency should be shown to them is a question which might be considered. But I do not quite see what room there is for raising a discussion about it here. If you so wish, I shall find out, of course, what the position is and place it before the House.

Mr. Speaker: Yes, let us have the factual position and then we can decide on the admissibility of the motion.

Shri Sadhan Gupta (Calcutta—South-East): As regards the adjournment motion, notice of which....

Mr. Speaker: Order, order. In that connection, I have already conveyed to the hon. Member that I do not propose to give consent. The subject which he has raised—I would mention it to the House—may be perhaps an important one, but I suggest that all such individual instances cannot form the subject-matter of adjournment motions. (*Interruption*) I do not want any argument on that. I find there is a tendency to give notices of adjournment motions on anything happening in any part of the country. That cannot be permitted in the form of adjournment motions. The subject is "the use of our air port at Dum Dum near Calcutta by British military aircraft for transport of Gurkha recruits of the British army on 26th November last". Whatever the importance, the hon. Member should realise that the incident does not raise any such all-India important question which requires an immediate discussion. The best course in such cases is to give notice of a short notice question or to give notice of a motion calling attention and enquiring about the facts. What is there to be discussed in this?

Shri Sadhan Gupta: May I make this submission? It happened sometime ago that certain French aircraft

[Shri Sadhan Gupta]

were involved in this kind of thing and the Prime Minister gave us an assurance that it was the policy of the Government not to allow foreigners to carry troops through our country. Now, this has happened again and there is no guarantee that it is not going to happen hereafter. In view of this, it is an infringement of our sovereignty and I submit it raises a matter of sufficient importance to merit discussion in this House.

Mr. Speaker: I am not inclined to agree with that view. There are bound to be individual breaches here and there and the best course is first to get the information before coming to the House for a discussion in the form of an adjournment motion.

Shri A. K. Gopalan (Cannanore): As far as the first adjournment motion is concerned, I have to make an explanation. It is not that I am saying that they are detained under the Preventive Detention Act. What I have said is that they are inside jail. I think that only a few are convicted; the others are not convicted, they are under trial. So what I meant was not that they were detained under the Preventive Detention Act.

Shri Jawaharlal Nehru: I know that. I did not understand it that way.

Shri Raghavaiah (Ongole): May I know when the report is going to be submitted to this House?

Mr. Speaker: As soon as possible. The whole point of the adjournment motion that is tabled is, as the hon. the Leader of the House has said, to invite the attention of the Government to the desirability of some kind of concession to those prisoners. That is the point he wants to urge. Let the factual situation be ascertained and then we shall see as to how....

Shri Sadhan Gupta: May I know if the Government are prepared to accept a short notice question?

Mr. Speaker: He may table it. Then I shall read it and ask them if they are prepared to accept it.

Shri Raghavaiah: With regard to the first adjournment motion, two of the persons put in prison are prospective candidates for the elections....

Mr. Speaker: Whatever it may be, *prima facie*, the position is that people who have acted against the law and are convicted in the course of the law have to take the results of their acts. (*Interruption*) The question involved is really about some kind of consideration and a political concession. That is entirely a different matter.

Shri Raghavaiah: The Governor of Andhra has promised....

Mr. Speaker: Order, order. I am not going into that question.

AUXILIARY TERRITORIAL FORCE BILL

The Minister of Defence Organisation (Shri Tyagi): I beg to move for leave to withdraw the Bill to provide for the constitution of an Auxiliary Territorial Force.

I had the privilege of introducing the Auxiliary Territorial Force Bill, 1954, on the 18th May last with the leave of this House. The object of the Bill was, to provide the legal basis for the imparting of training, and laying down the broad principles, for the establishment of training camps, and for the exercise of disciplinary control over the trainees while in camps held under the Auxiliary Territorial Force Scheme.

On the recommendation of the fourth meeting of the Central Advisory Committee for the Territorial Army, held on the 12th November 1954, it has been decided to revise the above scheme, and to have instead, a National Volunteer Force Scheme. Under the new scheme, the period of camps, which was initially 7 days and was lately increased to 10, will be 30 days. Apart from elementary military training, the trainees will be given instructions in miscellaneous subjects such as works of developmental nature. As the concept of the National Volunteer Force, which it is proposed to raise, is different from that of the Auxiliary Territorial Force, it has become necessary to introduce a new Bill, which will substantially alter the provisions contained in the Auxiliary Territorial Force Bill.

In view of this, I seek your permission to withdraw the Bill to provide for the constitution of an Auxiliary Territorial Force.

Mr. Speaker: The question is:

> "That leave be granted to withdraw the Bill to provide for the constitution of an Auxiliary Territorial Force."

The motion was adopted.

Shri T. B. Vittal Rao (Khammam): When will the other Bill be introduced?

Mr. Speaker: That will come later. We are at present only concerned with the question of granting leave to withdraw.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—*contd.*

Clauses 20 to 24

Mr. Speaker: The House will now proceed with further clause by clause consideration of the motion in respect of the Code of Criminal Procedure (Amendment) Bill 1954. Discussion on clauses 20 to 24 is proceeding. Of the 5 hours allotted to this group, 2 hours and 39 minutes have already been availed of on the 26th November 1954, and 2 hours and 21 minutes now remain. This would mean that the discussion on this group of clauses will conclude by about 2-30 P.M. when the clauses will be put to the vote of the House.

Thereafter, the House will take up consideration of the next group which consists of clauses 25, 97 and 114 for which 5 hours have been allotted.

Before the House proceeds further, I shall dispose of the point raised the other day by Mr. Amjad Ali.

It is necessary to state the background to appreciate the precise point raised by Shri Amjad Ali on the 26th instant enquiring as to whether the decision taken by the House on the 25th instant adopting clause 17 of the Bill is open to review, in view of the assurance given by the Chair on the 25th instant that the summons case procedure and the warrant case procedure will be discussed later on, and in view of the fact that clause 2 of the Bill had been withheld for discussion at a later stage.

On going through carefully the proceedings of the House on the 24th and 25th November, I find that at the suggestion of Pandit Thakur Das Bhargava while clause 2 was under discussion, the Minister for Home Affairs stated on the 24th as follows:

> "I suggest that you might put section 2, as open to discussion minus that bit relating to definition, and when we come to warrant and summons cases, then we might be pleased to discuss and change the definitions at that time."

Consequently, clause 2 of the Bill was not put to the vote of the House as will be seen from the later proceedings of 25th November. At the time of voting, Pandit Thakur Das Bhargava put the following query:

> "May I submit one word, before you put the question? So far as section 4 is concerned—(he means clause 4)—"so far as warrant case and summons case are concerned, the voting on these should take place subsequently, and the Deputy-Speaker agreed to that yesterday. So, kindly do not put it to vote at this stage."

[Mr. Speaker]

The Chairman thereupon observed that "the voting on amendment No. 340 is postponed". Ultimately, the Chairman observed that—

> "All voting on clause 2 is now postponed."

That is how clause 2 was kept open for the purpose of discussing warrant and summons case procedure and then the House took up for consideration clause 3 and further clauses.

During the course of the discussion on clause 17 on the 25th instant, Shri Amjad Ali remarked as follows:

> "Under clause 17, section 117(2) is proposed to be amended thus:
>
> 'Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in summons cases.'
>
> I have heard the hon. the Home Minister's speech and also the objects and reasons. I do not know why these cases that is sections 108, 109 and 110, have been made into summons procedure instead of warrant procedure. I want a reply to that point."

It will thus be seen that all that Shri Amjad Ali wanted was a reply to the question as to why cases under sections 108, 109 and 110 which were originally triable as warrant cases were now made triable as summons cases.

During the course of further discussion, when the hon. the Home Minister was replying to the debate, Shri Amjad Ali said as follows:

> "May I seek a little clarification? I want an answer why in clause 17, the original section 117 is made a summons case and not a warrant case."

The Home Minister said that so far the warrant cases and the summons cases, the discussion was postponed and the Chair also stated that "so far as the question of procedure was concerned, it was postponed."

Thereafter, in reply to a pertinent query by the Home Minister, as to whether clause 17, discussion on which Shri Amjad Ali now desires to re-open, will be put to the vote of the House, the Chairman remarked as follows:

> "As the House decides. If it is the opinion of the House that it should be adjourned, I will not put the question today."

At the conclusion of the Home Minister's reply, all the amendments to clause 17 were put and negatived by the House, including two amendments, one by Pandit Thakur Das Bhargava (No. 99) and the other by Shri S. C. Gupta (No. 360) specifically suggesting that the enquiry should be made in the manner prescribed for warrant cases.

It is thus clear that the House had specifically applied its mind to the question as to whether the procedure at the enquiry in cases under sections 108, 109 and 110 providing for cases of security for good behaviour should also be conducted by the procedure for summons cases instead of by procedure provided for warrant cases, as proposed by clause 17 of the amending Bill. After the clear decision of the House negativing these two amendments, there remained no point in postponing the disposal of clause 17. The fate of these two amendments substantially contained the decision of the House with regard to the clause 17; and the putting of clause 17 to the vote of the House remained only a formal matter. There seems to be some misapprehension or confusion as to what exactly was postponed and what the assurance was. The assurance was that the procedure for summons cases and warrant cases will be discussed together later on, and it was specifically for this purpose that clause 2 was not put to the vote of the House.

The question now raised is entirely different from the question of procedure of warrant or summons cases. The limited question involved when clause 17 was considered was whether the enquiries under certain sections, *i.e.* sections 108, 109 and 110 of the Criminal Procedure Code, should be as for summons cases or warrant cases, whatever be the procedure ultimately decided upon by the House for the two kinds of cases and the decision of the House was that, there should be no distinction of summons cases and warrant cases, so far as certain enquiries under the Criminal Procedure Code are to be made by the courts. As to what the procedure in summons cases and warrant cases will be is an open matter and whatever the House decides in respect of them will automatically apply to the cases covered by clause 17. Clause 17 has only decided that the distinction between certain types of cases and certain other types of cases for purposes of enquiry by summons or warrant cases procedure should be done away with.

To my mind, it appears clear that the assurance was limited to the procedure for warrant and summons cases and there was no mistake in putting clause 17 to the vote; but hon. Members carry a misapprehension that because the question of procedure was kept open, consideration of clause 17 was also to be kept open.

It will be clear from what I have said that, clause 17 was finally disposed of after discussion and on the point now sought to be raised again and cannot be re-opened. The discussion and the consequent decision of the House in respect of the procedure of summons and warrant cases is entirely a different issue and that issue will be open for discussion at the proper time in pursuance of the assurance given. We will now proceed with the discussion.

Shri Mulchand Dube (Farrukhabad Distt.—North): I was trying to impress upon the Chair the danger and the prejudice that must necessarily result to an accused person if the prosecution is entitled to cross-examine a witness on the basis of a statement recorded in the investigation.

[MR. DEPUTY-SPEAKER *in the Chair*].

Hon. Members who have spoken before me have impressed upon the House that the statements that are recorded during investigation are recorded in a desultory and haphazard manner. Adverting to that aspect of the question I wish to place before you two observations of the two hon. High Courts.

I am referring, first of all, to the observation of the Judges of the Allahabad High Court reported in a case, 1940 Allahabad 291, which runs as follows: "The purpose of this section is to protect the accused persons from being prejudiced by statements made to police officers who, by reason of the fact that an investigation is known to be on foot at the time a statement is made, may be in a position to influence the maker of it and on the other hand to protect the accused persons from the prejudice at the hands of persons who in the knowledge that an investigation is on, are prepared to tell lies."

So, there are two things which are mentioned in this connection by the Allahabad High Court to discredit the statements made during the investigation.

The other is reported in 28 Calcutta at page 348, where their Lordships say:

> "It was intended to recognise the danger of placing implicit confidence on a record more or less imperfectly made by a police officer who would not necessarily be competent to make an exactly correct record of the statement of a witness with due regard to the provisions of the law of evidence and who may not be entirely free from the inclination to take a

[Shri Mulchand Dube]

> statement as somewhat more definite than the witness intended it to be."

In view of the two quotations that I have read, it would appear that the statements recorded during the investigation are not such as to be implicitly relied upon It may be that the evil of winning over witnesses did not prevail at the time these judgments were delivered to the extent that it prevails now. But it must be admitted that the number of innocent persons who are being prosecuted has in no way decreased. The purpose of giving the prosecution an opportunity of cross-examining a witness on the basis of statements recorded in investigation is that nobody will be able to escape. Once a witness has made a statement in cross-examination in favour of the accused, the prosecution will promptly contradict him by another statement that he is said to have made during the investigation. The result will be the statement of that witness who has said something in favour of the defence will be to a great extent discredited.

The effect of the present amendment will be that the witnesses whose statements have been recorded so imperfectly as has been pointed out will be bound down to their statements and the accused persons will have no right whatsoever of ever getting an acquittal.

The matter that has to be considered from this point of view is what value we should attach to the record of the statement of witnesses during the investigation. My submission is that in view of the rulings that I have cited just now—and they are good even now—we cannot place implicit reliability upon the record of statement made during investigation. In spite of the fact that witnesses are to a much larger extent won over at the present moment now, than they were before, the fact remains that innocent persons are also punished and false witnesses are also produced.

For this reason my submission is that the amendment that I have tabled should be accepted.

Shri N. C. Chatterjee (Hooghly): Sir, Dr. Katju when sponsoring this Bill threw two atom bombs on the legal world of India.

An Hon. Member: They did not explode.

Shri N. C. Chatterjee: One has become a damn squib.

The first one is the deletion of section 162. You know, Sir, if the Britishers did one good thing in India it was the introduction of section 162 of the Criminal Procedure Code. Now that they have left India, now that their imperialism has been liquidated for ever, we should not fail to pay this tribute to the British jurists who had drafted this Code. The *raison detre*, the object, of section 162 has been repeatedly stated. Judges throughout India, also their Lordships of the Judicial Committee have pointed out that it is a very wholesome provision. Under that section, as you know, a statement made by any person to any police officer in India cannot be used for any purpose at the trial except for one purpose. And what is that exceptional purpose? The purpose of contradicting the prosecution witness when he goes into the witness box.

In 1949 in a case (76I.A, 147) the Privy Council pointed out that in some cases the police practised some subterfuge for the purpose of using it for corroborative purpose or for using it as substantive evidence and the Privy Council strongly deprecated that such statements should ever be used for any such purpose, either as substantive evidence or for the purpose of corroborating any prosecution witness in court.

Dr. Katju solemnly suggested while sponsoring this Bill that this safeguard should be taken away. You know, Sir, that in England there is no such law. British jurisprudence recognises the admissibility of statements made to police officers and can always be used in court. I remember in 1949 when I went to England I went to the court which was presided over by the Lord Chief Justice, and a criminal case was going on. As a matter of fact neither the Chief Justice nor the Jury were convinced whether the man in the box was really guilty. Then came in the investigating officer, or the police officer and the Lord Chief Justice asked him: "Mr. officer, what is the fact?" And he said that a statement was made to him by the man when he was apprehended and this was the statement. The case collapsed and the man was sentenced. Now, the Britishers have been acting under this system; they trusted the police and they allowed the statements made to the police to be used in court for corroborating, contradicting, for any purpose. But they deliberately discarded that practice in this country, because they knew the police, although they were very partial to the police,—they were much more partial to the police than either Dr. Katju or Shri Datar. But in spite of their partiality, in spite of their affection for the police, they know that in the context of India, in the context of realities, taking an objective view, it would be absolutely wrong to allow the admissibility of this kind of statement.

When Dr. Katju said: "I would repeal section 162 completely" it meant the abrogation of the most valuable safeguards. The objection made to this amendment by the legal profession is not because we want this kind of advantage for professional purposes. That is an absolutely unworthy imputation to make. People who cherish freedom and who know the country, realise that you cannot have the same sense of confidence in our police who lack integrity, truthfulness and efficiency. Therefore, the British have deliberately departed from their cardinal principle of jurisprudence and they have stuck to it for more than a century.

Sir, you know, the judgment of the Allahabad High Court which was quoted by Shri Amjad Ali. What is that judgment? They say, it is perfectly improper for any police officer to attempt the tactics of pinning down people to certain statements and then to use them to the detriment of those persons. Secondly, all the High Courts in India and the Privy Council have repeatedly pointed out that this is the most valuable safeguard against two things. What are those? Firstly, they have said, it is the most valuable safeguard against over-zealous police officers. These over-zealous police officers—Sir, you know in your experience, every lawyer knows it and that has been repeatedly stated by competent Judges in different High Courts—have put in things which were never said by the men who made their statements to the police. Recording is done in a most haphazard way. The record is never read out to the witnesses. The man concerned does not have any chance of knowing what is being put down by the police, and as, I think, Pandit Thakur Das Bhargava pointed out, they are all on loose sheets. Whatever is recorded, it is mostly done on loose sheets.

Shri S. S. More (Sholapur): That is what the Law requires.

Shri N. C. Chatterjee: It is not guaranteed that it would not be substituted or improved upon.

Secondly, the Judges have pointed out that this is the most important safeguard against untruthful witnesses and therefore this should be preserved. My learned friend Shri Datar, the hon. Deputy Minister, quoted a portion of the judgment of Lord Atkin which I had cited in my memorandum which has been printed in Book 'D' by the Government. Now, what did Lord Atkin say? Lord Atkin never made an observation that section 162 should be deleted, tampered with or amended. The great Law Lord was emphasising the desirability of maintaining section 162 and he pointed

[Shri N. C. Chatterjee]

out that it was a very valuable provision and that it should not in any way be altered or amended. That was in the case of Pakala Narayanaswamy Vs the King Emperor 66 I.A. 66. Just look at the length to which Lord Atkin had gone. Lord Atkin says that a statement made to a police officer by an accused person under section 162 is not admissible in evidence, even when the person making the statement—he may be an accused at a later stage—is not then an accused. He says that the Indian Legislature in its wisdom had enacted that the police with their methods, with their somewhat stereotyped inefficiency and overzealousness are in the habit of putting down things in the records which are not correct. Their recording had no guarantee of correctness. Therefore. he says, and that is the most important thing, that you should not allow it to be used against a person even when technically he is not an accused. Lord Atkin said that the intention of the Legislature in framing section 162 was to encourage, of course, free disclosure of information, but you must also protect the person making the statement from a supposed unreliability of the police statement. "Supposed unreliability" is not something just like "Alleged unreliability". He has really pointed out that in many cases it is unreliable and therefore there is a good justification for this kind of a provision.

The Deputy Minister of Home Affairs (Shri Datar): It is "supposed unreliability" and not "Alleged unreliability".

Shri N. C. Chatterjee: Sir, I am only commenting on Shri Datar's comment on Lord Atkin's commentary.

Shri S. S. More: You cannot make him understand it.

Shri N. C. Chatterjee: What he has pointed out is this. He is really extending the scope of section 162. He is really enlarging the ambit of protection to the accused, even when a statement is made by a person who is not technically an accused and he says there is good justification for it.

Now, Sir, I congratulate the Select Committee on doing something; that is, on killing Dr. Katju's first atom bomb. That is a good thing they have done. The deletion of section 162 has been deleted. Not only the lawyers, but practically all the Judges have condemned this attempt to delete section 162. I have got here in front of me page 1 of volume D. I am just reading:

> "The Andhra High Court Judges are saying that this amendment should not be accepted because it will enable unscrupulous subordinate police officers to coach up witnesses and it will tie down witnesses to statements which they never intended to make."

Now, look at the Calcutta High Court. What do the Calcutta High Court Judges say? They appointed a special committee consisting of 3 Judges and all of them were Judges with experience in the administration of criminal justice. They have all pointed out that this amendment should not be accepted at all. The statement of the Calcutta High Court Judges is printed at pages 195 to 203 in this volume. There they have pointed out that section 162 should not be altered in the way it is sought to be done. I am reading the language of a special committee consisting of three Judges—Shri Das Gupta who was a member of the Indian Civil Service, a senior District Judge of great experience and who is now the seniormost puisne judge of the Calcutta High Court; Justice P. B. Mukerjee who was appointed a Judge to enquire into the disturbances in Calcutta; and Mr. Justice D. Mukerjee who was one of the outstanding criminal lawyers on the appellate side. They are saying:

> "We are strongly opposed to the proposed deletion of section 162 of the Criminal Procedure Code. The obvious purpose is to make

> statements made by witnesses during the investigation available in evidence of the trial. We are afraid that if this is to be allowed many investigating' officers will not be able to resist the temptation to make incorrect records of statements made to them."

I am very happy that Shri Gadgil's Committee has deleted this proposed deletion of section 162. It is not that we are saying it. The very first sentence of the Joint Committee's Report says that they have no faith in the integrity, truthfulness and efficiency of our police. I am reading from the Report:

> "The Committee feel that the deletion of this section will do away with the protection enjoyed at present by the accused against the prejudicial use of untruthful statements of witnesses recorded by over-zealous police officers."

Therefore the Committee realised that this sort of mischief is done. There are not only over-zealous police officers but they also record incorrect statements made to them. The Report goes on to say:

> "The effect of such an omission would be that the statements recorded by the police under sub-section (3) of section 161 may be used by the prosecution both for the purpose of corroboration as well as of contradiction."

The Joint Committee rightly condemned this and says that they are not going to allow it for the purpose of being used for corroboration and they have, therefore, restored section 162. They have restored section 162 but they have tampered with the proviso. I am using the word 'tampered' not in a bad sense, but I am pointing out......

Shri Gadgil (Poona Central): It does mean something.

Shri N. C. Chatterjee: ...that this provision should not be modified in the way it is sought to be done. The first proviso to sub-section (1) should not be modified. Sir, you have seen the amendment sought to be made. It seems *prima facie* innocuous. I will ask my hon. friend the Minister and the House seriously to consider this. Are you not really to a large extent making negatory the very purpose of keeping section 162? Are you not making to a large extent illusory the safeguard which you are going to give to the accused by the restoration of that section? What is being done is this. They are now saying that the statements recorded by the police shall be reduced into writing, but even if it is reduced in writing, it shall not be signed by the person making it. It says that it shall not be used by the Court but the Court shall on the request of the accused refer to such writing and direct that the accused may be furnished with a copy thereof in order that any part of the statement being duly proved may be used. Then, Sir, the statement given by the accused with the permission of the Court may be used by the prosecution. *Prima facie* Dr. Katju says that what is sauce for the gander should be sauce for the goose. But, is it fair that while the accused says something your police should come into the case and say that on the statement which he had given to them he said something? Supposing he says something in favour of the accused and in course of cross-examination that is brought out, will it then be right to trot out a statement which was supposed to have been recorded six months before and to show it to the Magistrate to get the witness declared hostile, cross-examine him and destroy the effect of all the cross-examination made on behalf of the accused.

Shri Raghubir Sahai (Etah Distt.—North East *cum* Budaun Distt.—East): It may be due to tampering by the accused.

Shri N. C. Chatterjee: If I have made a statement on the 1st January and if I make a statement to the contrary on the 1st July in the Magistrate's Court, then certainly it is right

[Shri N. C. Chatterjee]

and proper that I should be confronted with that and I should be shown "This is the statement which you made six months ago and how do you explain your evidence?" My point is that the accused is not being confronted at that stage with his own statement—the police or the prosecution instructed by the police is using a statement, which is a police statement. How do you know that it is the witness's statement? What justification have you to assume that that was really the statement which he made?

Mr. Deputy-Speaker: What is the difficulty for the police? Wherever they have got doubts about some witnesses, they can take them and get statements from them under section 164.

Shri N. C. Chatterjee: Even Judges have deprecated the use of that kind of statements. What I am pointing out is this. Will it be just? Are you not destroying to a large extent the safeguard? If you are allowed to put a man in the witness box and simply because he is making a statement which you do not like or which you think is against a statement in the police record, is it just to confront him with it and start a cross-examination by getting him declared hostile? Immediately, you show the Magistrate "Here is a police statement" in 99 cases out of a hundred, you will find that the Magistrate will readily agree that the witness should be declared hostile. I say that a witness who is unfavourable is not necessarily hostile. If a witness deliberately goes back on a statement solemnly made by him, that is a different thing, but in 99 cases out of a hundred, what is going to happen is this: if the prosecution shows the Magistrate that such and such is the police statement attributed to this gentleman, then under section 154 of the Evidence Act the Court will permit that person to be cross-examined by the prosecution. Even if a man is stating the absolute truth in the witness box, his evidence will be shaken and you know in actual experience that the testimony of a witness, who is declared hostile, is never accepted—very rarely it is accepted—because the very fact that he is declared hostile shows that he is an unreliable witness. You can allow him to be cross-examined because he has gone over or something has happened which *prima facie* impeaches the veracity of the man. Would it be right that simply because that a sub-inspector or somebody six months back or eight months back has put down something in his police papers attributing something to X,—though X may be a perfectly responsible gentleman, X comes to the witness box and states something which is perfectly true,—on the strength of that paper, the Court allows a cross-examination of that man as a hostile witness. Are you not doing something which will completely destroy the advantage of getting the truth from the man in favour of the defence? Is not the defence being deprived of it? I could understand if you are confronting a man with his own statement. I do not understand the logic of it when you are confronting a man with a police statement, which does not necessarily represent his views and regarding which there is no guarantee that it is his statement. Courts in India have throughout said that there is no assurance of correctness of such statement and that is the thing which I want my learned friends on the Treasury Bench to realise. I do not object to re-examination. Experienced Judges and experienced Magistrates have said "Kindly do not delete section 162 and it will not be fair". They wanted the restoration of the section in its pristine purity and they did not want it to be amended or whittled down because this is a most valuable safeguard, consciously embodied in the statute-book for the purpose of getting the truth. Mr. K. J. Khambatta, Chief Presidency Magistrate of Bombay, and a Magistrate of great experience, has observed that section 162 has been the sheet anchor of the advocates of the accused during the last hundred years during which the section has existed on the statute-book in one form or another, and he has strongly advocated, as the head of the magistracy in one of the biggest cities in India, that this section should be retained. That has been a great point made by different speakers. The little gain to the prosecution will be over-weighed by the great disadvantage and handicap under which you place the defence, and I am objecting to this because psychologically the effect will be almost irresistible that the man, however truthful he may be, however honestly he may depose in the witness box, he will be under the shadow of these statements of the police, of the imputation of perjury, of being an unreliable or unscrupulous witness. I appeal to my hon. friends to consider whether this amendment should be kept in the provisions or whether the original section 162 should be restored.

Shri Gadgil: I have listened with very great attention to the remarks made by Shri Chatterjee with respect to clause 22. If I were convinced that the clause, as drafted and approved by the Select Committee, was in effect a complete destruction of the safeguard that was in existence under section 162, I would not have certainly differed from him. What I feel is that the substantial portion of section 162 granting the safeguard against statements recorded by the police is incorporated in clause 22. What has been added is that a right under very restricted circumstances has been made available to the prosecution. Surely Mr. Chatterjee will agree with me that the value of a statement made to the police cannot have one value if it is to be used by the accused for certain purposes and another value when it is to be used by the prosecution for other purposes. The statement has the same value.

Shri S. S. More: It cannot have the same value.

Shri Gadgil: If it is not adequately taken, if it is wrongly taken, if it is substituted or tampered with, all those things are equally applicable whether those statements are sought to be used by the accused or sought to be used by the prosecution. I can well understand some of the remarks made by Mr. Chatterjee that our police is not efficient, sometimes they are very over-zealous and sometimes they may even be malicious, but these are matters which cannot be improved, but there is an amendment, No. 289, in which certain suggestions have been made. Those are the suggestions which relate as to the manner in which the statements ought to be recorded, that they should be fully recorded, that they should be recorded not on loose sheets of paper but that they should be written in a book or a register, that as soon as the statements are recorded they should be forwarded to the headquarters in order to safeguard, as much as possible, tampering with them, or with the inadequacy of statements, and so on and so forth. All these things need not be incorporated in the law itself. Those are matters which can come into existence by the issuance of directions by the proper authority. But the main point is that, is justice to be even, or, is justice to be overloaded against the prosecutor? If it is a case between the prosecutor and the accused and no third party is interested that is another matter. But so far as this procedure is concerned, it is a procedure with respect to cognizable offences in which the society has something to say. Now, the experience today is this: and many people will bear me out when I say that. I know the state of affairs in some districts in Bombay State. It has become a practical art with some of the people to tamper with the prosecution witnesses, and it has become increasingly difficult to secure conviction in just cases where convictions, ordinary people think, are bound to follow. That state of affairs is already there, and we cannot be entirely disregardful of the same. It is true that there

[Shri Gadgil]

must be certain presumptions in favour of the accused, but in consideration of the feelings of the complainant whose property has been stolen or robbed or whose relatives are injured or murdered, the States holding the scales must hold them even. They must see that the accused is convicted if found guilty, and that justice must be done to all persons concerned. You cannot simply disregard the social aspect of the crime and say that every provision in the criminal law of the land or the law relating to procedure must be in favour of the accused. That is not the proper attitude. What I submit is that the insertion of these words, "with the permission of the Court for the purpose of contradiction" is there, because there is a certain situation that has arisen, and in order to meet that situation, a provision of that character, in my humble opinion, is necessary. I do not really understand how the insertion of this clause has prejudiced the accused.

Mr. Deputy-Speaker: Is it a proposal, in relation to the amendment that was referred to by the hon. Member, to make it more reliable and not be tampered with? Should it also be signed?

Shri Gadgil: His grievance seems to be that that right of contradicting the witness by refering to statements made before the police has been granted to the prosecution. That is his grievance. What I am urging most respectfully is that the insertion of this provision has not affected the safeguard which was given in section 162 and which has been substantially adopted in clause 22. If the witness says whatever is expected of him in the examination-in-chief taken by the prosecution, and in the cross-examination very quietly tells something different, then, this is the usual experience. What sort of justice is being dispensed with? You will say, no, although he has said something in the examination-in-chief and something different in the cross-examination. Therefore, because he is a prosecution witness, he must not be confronted with something which is contradictory and which is contained in statements made to the police.

Shri S. S. More: Does the hon. Member mean that cross-examination should be the exact replica of the examination-in-chief? Then, the prosecution will not be worth its salt.

Pandit Thakur Das Bhargava (Gurgaon): Will he not be cross-examined even when examination-in-chief is not finished under section 154? He assumes he will not be. It is entirely wrong.

Shri Gadgil: I think Shri More will imagine cases in which it is not the exact replica but some materials point are left out, and in the cross-examination he says something which he has not said, or said in a different manner, in the statement before the police. The main point that I am urging is that the insertion of this wording does not affect in the least the right of the accused to use the statement made by the witness before the police for the purpose of contradiction. He can have them at request. But when the prosecution wants to make use of it, there is the safeguard provided here that it will only be done if the Court permits; and the Court will not permit it unless a strong case is made out that the particular witness has become hostile for all purposes. I am sure the experience nowadays is that in very rare cases witnesses are allowed to be considered as hostile.

Mr. Deputy-Speaker: How is he declared hotsile? On what ground is he declared hostile? Is it because the police statement is different?

Shri Gadgil: It is not stated that that should be the only ground on which the Court or the Magistrate should come to the conclusion that the witness had become hostile.

Mr. Deputy-Speaker: Is it the hon. Member's experience that a men said something foolishly in the examination-in-chief, and said so openly, and then contradicts it in the cross-examination? Is there one who covertly and very cleverly avoids to state something which he has said before the police, or says something differently? Is it the intention of the hon. Member that the police statement ought to be referred to and on that ground this man must be treated as hostile? Then, it will become substantive evidence.

Shri Gadgil: The point is in what circumstances the Magistrate or the Court will declare a particular witness as hostile and allow the prosecution to contradict the witness by showing to him what he has stated in the statement? It is dependent on the particular circumstances of the case. We cannot dogmatically predicate here that, because it is provided, in each case the Magistrate will declare that the witness is hostile. That is not the point. The main point really is whether the inclusion of a provision of this type is necessary or not. In view of the situation we are meeting with, where witnesses are tampered with on a large scale, and where it has become difficult to secure justice in the interest of social peace, I respectfully submit that the inclusion of this wording, of such a character, is absolutely necessary. It does not take away the safeguard in the least.

Shri Nageshwar Prasad Sinha (Hazaribagh East): I have moved an amendment to clause 23. First of all, I would like to confine my submission to the amendment itself. One of the main principles behind this Bill is to have a speedy trial and to avoid delays in the disposal of cases so far as it is possible. By a speedy trial, I mean the trial not only before the Court or a Magistrate, but I will go beyond that and say that it should also cover the stage of investigation by the police officer. Because, when one starts his case by lodging the first information report before the police, he has to wait for a pretty long time before the investigation is concluded.

1 P.M.

[SARDAR HUKAM SINGH *in the Chair*]

The investigation ordinarily takes more than six months—in certain cases it takes even more time when it involves an offence of inter-district or inter-State conspiracy—and the accused persons who have already been arrested during the investigation stage have to remain locked up for months and months. They then go to the Court and wait for their trial. In many cases, the disposal of the cases by the Magistrate does not take a very long time. It is only the stage of investigation that takes a pretty long time. My amendment is that in section 173 of the principal Code, after the words "without unnecessary delay" the words "that is, within fifteen days from receipt of information under section 154 or an order from the Magistrate under sub-section (3) of section 155 of the Act, or, at the latest, within thirty days if there are rare and extraordinary circumstances" shall be inserted. The principal section says that the investigation should be completed by the police without unnecessary delay. That is the only expression that has been used in the Code. But, this expression is so wide that we cannot put a limit even if the investigation proceeds for months and months. I want that there should be a time limit for it.

While going through the opinion, expressed by no less a person than Mr. Justice Mahajan, Chief Justice of the Supreme Court, I found that he is in favour of a time limit being fixed. I would refer to page 317 of the opinions, Group (C) where he says:

> "There should be a special agency of the police for investigation of crimes and for preparing prosecution cases and a time limit should be fixed for investigating offences and any extension of that time should only be given for sufficient cause."

[Shri Nageshwar Prasad Sinha]

I think this is a very valuable opinion. In view of this, I have ventured to table an amendment of this kind.

As I have said, trials before Magistrates do not always mean a trial to the inconvenience of the accused or the prosecution. But, as far as I have been able to see from the opinions received under this memo, there is not a single person, be he a Magistrate or an Advocate or a Judge or anybody, who has expressed a word in favour of the police agency throughout India. It is unfortunate that not a single line anywhere has been said in favour of the police. The point is, not only have we to reform the whole law, but it is also the administrative machinery, the police machinery which has got to be set right. In that connection, I may quote a certain passage from the observations of Mr. Justice Mahajan. He says, on page 313:

> "Generally speaking, the machinery that is responsible for the administration of the system has become inefficient, indolent, dishonest and corrupt. No reform in the system can improve matters if the machinery for its administration remains the same.

Further on, he says:

> "All this delay in the disposal of cases is due to...—(because we are now concerned with the speedy trial of cases as far as possible)—due to great inefficiency in the personnel of the judges and magistrates and their method of work. Most of the judges, do not come to the courts in time. Even if they come to the court in time, they keep sitting in the retiring rooms and when they start their work, their mind is somewhere else......"

Shri Altekar (North Satara): How is all that relevant?

Mr. Chairman: Because, it has been said that without reforming the machinery it would not be sufficient if we reform only the procedure.

Shri Altekar: He is reading about Magistrates and Judges.

Shri Nageshwar Prasad Sinha: I should not omit one word while I am quoting the Chief Justice of India verbatim. He says:

> "They do not read the papers and have a blank mind and do not follow either the evidence or even the issues."

While I say all this, I concern myself primarily with the question of delays.

I have also to say a word in connection with section 202 of the Criminal Procedure Code. Whenever a case is referred to the police for enquiry, it has been our common experience to see from the Order Sheets of a Magistrate, "Enquiry report not received", "Enquiry report not received", on a number of dates, eight or nine dates with an interval of 15 days or so. This goes on and it becomes intolerable also for the prosecution to brook the delay. I have also tabled an amendment and when it comes up, I shall make my submissions. So far as this amendment is concerned, I request the House to consider whether a time limit on investigation should not be fixed.

Shri N. Somana (Coorg): I have moved an amendment to clause 22, amendment No. 425, to delete the words "and with the permission of the Court by the prosecution". Already a number of points have been stressed with regard to section 162. I would like to place before the House one or two salient features with regard to the provision contained in section 162.

One of the cardinal principles of criminal law is that no previous statement of any person should be used to contradict him unless it was taken on oath, unless there was an opportunity of his being cross-examined, unless the statement was signed by him. This is the general principle on which previous statements are admitted. There is only one exception to that rule and that is contained in section 162. That is, when a statement is made in his own favour and subsequently, it is put before him for the purpose of contradiction, under section 162, it may be used by the accused for the purpose of contradiction only. So, my submission is, such being the case, it is not fair that a previous statement of a witness recorded by the police in their own favour, should be made use of for the simple reason that that statement was not liable to cross-examination, that it was not made on oath, nor it was signed by the witness. As I stated, an exception was made only in the case of the accused for getting a contradiction of his previous statement. As has been stressed by many hon. Members, we know the way in which these statements are made. A witness makes a statement and that is copied subsequently in many cases. In view of the basic proposition that I have set forth, it is unfortunate that a provision of this type should have been made, and a party should be allowed to make a statement in his own favour. What is the purpose? The purpose is to use it against him, to show that he is untrustworthy and make his evidence absolutely worthless. This is a point of principle that a person should not be allowed to make any use of his statement in his statement in his favour. On that ground, my humble submission is that this clause as it is worded now, though an improvement on the original clause that was contained in the Bill, goes against the cardinal principles of criminal law. Therefore, I have given an amendment to the effect that the words 'and with the permission of the Court, by the prosecution' be deleted from this section, and the provisions contained in section 162 as it exists today must be continued. Many authorities have already been cited, and I would only submit that the authorities on this question are very clear that under the existing section 162, it is only in exceptional cases that the accused is given an opportunity to contradict a witness of a previous statement, on the principle that the witness has made a statement in his own favour.

So, my submission is that this clause, as amended by the Joint Select Committee, should not be allowed to remain on the statute-book, because it is bound to create a lot of hardship and injustice to the accused, and as I stated earlier, it goes against the principles of all criminal jurisprudence.

Pandit Thakur Das Bhargava: In regard to the amendments that I have placed before this House, I want to speak on some of them. In the first instance, I shall just take up two or three small amendments, which I have given notice of, before I go to the main question before the House.

In regard to section 23, the words in the Bill are:

> "After forwarding a report under this section, the officer in charge of the police station shall, before the commencement of the inquiry or trial, furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (1)......"

I have given an amendment to this section. As a matter of fact, according to the Constitution, the accused has got a right of being informed of the grounds of his detention or arrest as soon as possible—I am quoting the very words of the article of the Constitution. Therefore, my submission is that as soon as these records are ready, the accused should be supplied with them; there is no question of supplying them at the time when an inquiry is started. As you are well aware, even our Punjab High Court, which has gone over to Pakistan now, has declared that in sessions cases, the accused must be furnished with copies beforehand, and reasonably beforehand, i.e. before a reasonable time, so that he may come prepared. What is the use of handing over the copies of statements at the very time when the examination of the witness starts? No person can be ready for

[Pandit Thakur Das Bhargava]

cross-examination, if in advance of time these copies are not given. Therefore, my submission is that first of all, we should see that according to the Constitution, and according to a reasonable standard of convenience to the accused and his counsel, these copies and all these papers must be supplied well in advance. I have put an amendment saying that these should be supplied as soon as possible, but in no case less than fifteen days in sessions cases, and ten days in ordinary warrant cases.

Shri V. P. Nayar (Chirayinkil): Why not fifteen for both?

Pandit Thakur Das Bhargava: Sessions case is much more serious, and requires much more study. I am taking the minimum time.

Shri V. P. Nayar: But the original line has to be taken earlier.

Pandit Thakur Das Bhargava: At the same time, I have submitted that it should be as soon as possible; and that, I think, will meet the ends of justice. For enabling that, I have again put in another amendment to the effect that these statements should be made in duplicate or triplicate. When the statements are being taken, the *zimni* should be so put in a book, that as soon as the statements are taken, they are copied out in twos or threes, and it will not be difficult to furnish these statements to the accused. This may be done all at once, and at the same time, it will ensure one thing more besides reducing costs.

I have seen sometimes that even when these copies are given, they are not true copies. Supposing there is an erasure in the original statement, which is most material, the accused is entitled to know what was written, and what has been substituted. I have seen in sessions cases, when the records are made and some erasures are there, or something has been substituted subsequently—they may be signed or they may not even be signed—they give clue to the whole case. I had an experience some years back in a case in Ferozepur, when I was given copies, and the accused took certified copies from the Court; but when they were given to me, as is the habit with me, I compared those certified copies with the original, and I was astounded to find that in some places, in certain copies, the erasures and whatever was substituted were not given. On a perusal of them, I came to the conclusion that certain of these erasures were most material, and they gave a lot of clues to the entire case. One word in a criminal case, in a statement or in an inquest proceeding, etc. may destroy the entire case. Therefore, my submission is that if by way of an automatic copying process, a copy is prepared at the time when the statements are made, then it may be called a true copy from the original, for it is just like the original according to the Evidence Act; and this copy should be handed over to the accused as soon as possible, so that he may be able to know where the erasures are, where the substitutions have been made, and what those substitutions are.

At the consideration stage, I submitted for the consideration of the hon. Home Minister many things in regard to the police, the judiciary and lawyers. He was rather angry a[illegible] said, we are only considering the procedure, whereas you made certain statements about these things. Not only that, he went further and said that in the opening speech he never made a reference to them, which was quite wrong; but I am not here to contradict him on this score. What I want to submit is that specific points have been suggested by me in regard to the procedure. Perhaps, the views of the Members other than members of the Select Committee of the House may not be equally good, but in this I am supported by the Chairman of the Select Committee, who was at the head of those 49 men who have decided our fate behind our back, because we are not properly heard here every time: and again, the hon. Home Minister stands up and says, these 49 men did this. They are my colleagues, and I have very great respect for them, and certainly, their Report is entitled to our respectful consideration, in the words of Shri Datar, which I accept. But at the same time, it is entirely wrong to suggest that all these questions are not to be considered here, because the Select Committee has made its Report. Shri Gadgil also admitted before the House that these suggestions are very good. But, unfortunately, these suggestions were never considered, though the House ordered that all these suggestions should be considered. At the time of the consideration stage, I made these very remarks, which I am making now, that for the purpose of section 172, entries should not be made otherwise than in a bound book, and the process of copying and the taking of statements should be in this book, and that they should not be written on loose papers. But none of these things has been considered, and today also, I am afraid, they will be brushed aside. I have sent in an amendment to this effect, namely amendment No. 372. This is only one aspect of the story.

The other aspect of the story on which I wish to emphasise very much is this. The foundation of criminal procedure, and I should say, the foundation of all trials, is the police statement, because the police statement is taken all at once, just after the occurrence when the police officer rushes there, and since it is a statement made for the first time, it has an importance of its own. If this statement, when it is repeated in the witness-box by a witness, is believed by the Court, then the accused has no chance of acquittal. If at the very inception we find that something is wrong, something is perjured, and the statement is not good, then the accused has a reasonable chance, or a very good chance, I should say, of being acquitted.

So, it is absolutely essential in the interests of justice, both for the prosecution and the accused, that we should be able to have a good and reliable record of what a witness says. Now, what is the present position, and what is the present law? I shall come to the question whether it should be utilised for contradiction or not, a little later. But I beg to submit that the initial thing, the basic thing, the thing whose importance I cannot fully emphasise is this. Section 161(1), as it stands, reads as follows:

> "Any police officer making an investigation under this Chapter.... may examine orally any person supposed to be acquainted with the facts and circumstances of the case."

Now, there is a long range over which the persons to be examined may be spread.

There are eye-witnesses, circumstantial witnesses, witnesses round about the locality, about motive, intention and all other incidental circumstances. What is the order about them? "Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions....". The word 'truly' in the old Act was omitted, as you know, so that the witness is not bound to speak the truth there.

Then I come to the most relevant portion:

> "The police officer may reduce into writing any statement made to him in the course of an examination under this section, and if he does so, he shall make a separate record of the statement, of each such person whose statement he records."

I appeal to your experience. Do not clever police officers write a joint statement so that the accused may not be furnished with a copy? The words are: 'shall make a separate record of the statement of each such person'. We know that every day joint statement is taken so that the accused may not be entitled to a copy of it, because we will not be able to say whose statement it is. But then, what I most

[Pandit Thakur Das Bhargava]

object is that the police 'may reduce into writing any statement'. Suppose a case comes before a police officer for investigation. There are five witnesses. Two of them are eye-witnesses. Two of them support and the others do not. It is within the power of the police officer to record the statement of any person. He may record the statement of two and leave the rest. If these people are not amenable to any particular statement, then he may postpone it for three days, put all the pressure that he is capable of, and subsequently record the statement as he chooses. This also does not debar even conduct like this. He may write on the first day also statements just as he chooses and put in their mouths what they never stated.

Then, he may record the statement. But when? The section does not say. It may be after seven days after he has gone away to his home. I have examined Superintendents of Police and higher officers and I find that they say that their statement was never taken down in their presence. It was never read out to them. I know there is no provision for reading it over to witnesses; at the same time, the statements of all these higher officers—police officers—and all the eye witnesses at least should be taken down in the words in which they give their statements or in their presence. What I find from cross-examination of many important officers is that this is never done. I want that there should be an obligation upon every police officer to record the statements of those whom he examines, if those persons are supposed to be acquainted with the facts and circumstances of the case. First, I want an obligation to be put upon the police officer to examine those persons. In regard to eye-witnesses, it may be that in rare cases—or in very big cases—it may practically be difficult to take down the statements of very many persons. But so far as eye-witnesses are concerned, I am anxious that their statement ought to be taken down in their presence, in their language and as soon as possible. Now, I had to do a case recently in which a girl—the daughter-in-law—alleged that her father-in-law was beaten with lathis in the Courtyard. When she came to court, she said that the man was stabbed, he had injuries on the head but the broken part of the dagger was found there. Then she said 'No', this man was stabbed in my presence in a room. One part of the dagger was in his hands and the rest was embedded in the chest of the father-in-law. The question arose whether this was a very serious discrepancy, this contradiction, and the lady said: 'I am very sorry. I was not put this question. I was never examined in full'. The Sessions Judge believed the lady and ordered seven accused to be transported. It is a different matter that in the High Court the result was different and they were acquitted. But I am submitting that the police officer does not record even the material portions. There is no obligation on him by law to record all what a witness says or even the full statement as given. I can understand that our police officers are not fully competent· they do not realise what is relevant and what is not relevant. With that I must be satisfied because unless I produce more competent and trained and efficient officers, I must be satisfied with those whom we have got. But at the same time, should there be no obligation on any person to write down the full statement or the statement in the very words of the witness or the statement in his presence? This is too much. You yourselves bring out statements; you yourselves produce statements which cannot be relied on in a court of law. When you yourselves do not agree to this change of the law, I cannot understand how you can improve matters. I understand the Chairman of the Select Committee. Shri Gadgil, said that it can be do[illegible] by executive instructions. I fail [illegible] see how it can be done by executive instructions Law and order is a State subject. One State may like it; others may not like it. The Centre has got no authority to impose its will upon the States in this matter. Why has it not been done so far? As a matter of fact, all Home Ministers, all executive officers, all big functionaries have got a soft corner for the police because the police are responsible for law and order. I too have got a soft corner for the police since independence. I respect every policeman and I respect every man in the army. I have got respect for them and I want them to be improved. Why not take courage in your hands and improve the section and put it clearly? What is the meaning of telling me that you will do it by executive instructions? Why don't you put it in the law, if you want to see that cases are tried with speed and rightly?

Now, when we started the talk of amending the Criminal Procedure Code, there was a fanfare in the entire country. We were given to understand—our Home Minister, an eminent jurist and an eminent lawyer and all that was going about the country and saying—that they were making some proposals which would change the entire face of this Criminal Procedure Code. We were very happy. We were told that there would be no commitment and there would be better justice. But what do we find? I find nothing of the kind. Instead of that, the ultimate upshot of this will be that the right of cross-examination in a warrant case may be taken away or Ministers may perhaps be immune from criticism which may be stifled. I do not see anything else in this. Why don't you accept my amendment? Why do you say you are going to do it by executive instructions? Why don't you have the courage to accept this small amendment in section 161 which would improve your procedure and which would, at the same time, bring confidence in the administration and which it will not be difficult for the court also to enforce. What do I visualise? I visualise in course of time, in twenty or thirty years that our section 162 and the statement of the police will be given their proper place. The proper place for a police statement is when the policeman says 'this is what the accused has confessed before me'. Then I think right sort of administration is there, even if on the statement of that man the accused is sentenced to death or imprisonment etc. etc. The policeman should be an example of truth. He should be a person whose word should be believed. This is so in England and other countries. But what do we find here? I can understand that we have got a police which every day is criticised and the hon. Minister and the Deputy Minister also have been pleased to say 'Of course, today they are not what we want them to be'. I quite see that. I want that they should be improved. But at the same time, are you making any effort? Are you really going to improve section 162 etc.? Why is section 162 not accepted in India? You know the previous government, for their own purposes, wanted to have statements which would suit them. They did not want truthful statements, they did not want a police which would command confidence in the country. In that way there was a police state. Now, I want that every police officer should be honest. How can he be honest with these sections. With section 161, he cannot be honest because, after, all, he has to look to his promotion. If the case fails, his promotion is affected. The circumstances are such that even if he wants to remain truthful and honest, he cannot be so unless the law is changed.

Shri V. P. Nayar: They want him to be dishonest!

Pandit Thakur Das Bhargava: I will not go so far as that. The difficulty is this. I want him to be honest. You want him to be honest. There is no doubt about it. But at the same time, the way in which we are proceeding cannot make him honest. The Criminal Procedure Code is not honest. At least in the transition period we should see that his statement should be invested with some sort of credibility or confidence in the courts. Now, they have none, absolutely none. The way in which this could be done was that there should be an obligation placed on him and the cases in which he

[Pandit Thakur Das Bhargava]

violated these provisions should be rightly considered by the executive and he should be punished.

I know of a recent case in Ferozepur district, where the first information report reached the *thana*, five miles from the place of occurrence, at 10-30. The occurrence was alleged to have taken place at 8. There was the police post there and the report was sent at 12 in the night. This was the prosecution case. But the record showed that the report had already reached there at 10-30 and it was recorded in the *roz namcha*. Can any, thing be worse than this? In the sessions, the Judge came to the conclusion that the report could not have been written in the *roz namcha* at 10-30; at the same time, it was said that the police officer was rather overzealous. He did his part and that police officer is enjoying his emoluments and all that. This is not the way in which the police can be improved.

So far as the other aspect is concerned, my proposal is contained in my amendment No. 372. There should be a police diary and it should be divided into two parts. One should be as described in amendment No. 372 and the other should be called 'statement diary'. Both should be parts of one whole. That should be a bound book and every page of it should be signed by the highest authority in the land, say, the Inspector-General of Police or some other officer, so that it could not be tampered with. It should not be of loose sheets which could be removed and replaced. In Sardar Bagat Singh's case, the *zimnis* were tampered with. On another occasion it was a very serious case where eight murders had taken place and fifty-six people were accused; we found in that case that the *zimnis* were tampered with and substituted. On that basis, all were acquitted. This is the state of things and even the executive do not like it. That is why I say that they should accept certain amendments which would improve the manner of keeping diaries. Then, diaries are not sent on the day on which they should be sent and nobody takes care to see whether it is sent or not. In every Sessions case it has been pointed out. I propose in my amendment No. 372 that a register of the diaries should be kept showing the dates on which the diary is alleged to have been sent; it should be entered in that register and this should be open to the accused. Similarly in regard to the statement in the diaries, the accused should be furnished with relevant portion of the diary. It should be available to him so that he may be able to see what is the real statement. If these two amendments are accepted, I am perfectly sure that the prosecution as well as the defence would both be benefited to a great extent and this want of confidence and want of speed would go away. My misfortune is that this will never be considered. This is the proper time when the Criminal Procedure Code is being considered and if at this time it is not considered, I do not know when it will be considered.

The Speaker has given a ruling about the clauses on which amendments are to be moved. At the same time he has said in his ruling that an amendment can be moved to clauses which are inter-connected. All those sections which have got a direct relationship with this amending Bill can be amended. If you consider section 162, section 161 is the first section which ought to be considered.

Section 172 was the subject-matter of the first Bill. Now they have revised it and had taken away section 172. I do not know why. Sections 161 and 172 are very important sections and my amendment is the most important one. I therefore request the hon. Members of the House to kindly consider these amendments and pass them even if the hon. Home Minister does not want them because they go to the root of the matter. It is not that the Home Minister does not want them; he wants to do things by some executive instructions. But this House has got the right and opportunity and it is its duty to see that these two sections are amended. I shall come to section 162. . . .

Mr. Chairman: All that I want to request the hon. Member is that there are so many people yet to speak. I would ask him to be as short as possible.

Pandit Thakur Das Bhargava: I shall try to be. In this section, we find the words 'with the permission of the Court'. The hon. Deputy Minister made a point on 26th November that as soon as a witness comes, it is not as a matter of course that the Courts will grant the permission sought. He said that first of all they will examine the question seriously as every other question, according to him, is examined by the Courts and they will consider whether permission to cross-examine should be given or not. First of all, they should go and declare the witness hostile; then, the Courts will consider whether he should be given permission. I think I am putting the case rightly.

Shri Datar: Correctly.

Pandit Thakur Das Bhargava: I have given notice of an amendment. It is not that I want to move that; it is too reactionary. I will never move that but this is what the hon. Minister said in his argument. I have put the gist of the argument. It is No. 522.

> "Provided further that if the prosecution desires to impeach the credit of the prosecution witness by contradicting him with his previous statement under sub-section (3) of the section 161 and requests the Court to declare the witness hostile and to exercise its discretion under section 154 of the Indian Evidence Act to permit cross-examination of such witnesses and the Court exercises its discretion in favour of the prosecution, the prosecution shall be entitled to use the statement for the purpose of contradicting the prosecution witness in accordance with the provisions of section 145 of the Indian Evidence Act and in such an event the accused shall have the right of re-examining the witness and use any part of such statement for the purpose of explaining any matter referred to in such cross-examination."

This is what he said. I do not think he will agree to father this amendment. What happens? First of all, it has been assumed that the witnesses are declared hostile. It is entirely wrong. I should say this will be wrong on law also if the witness is declared hostile before permission is given.

I will just read out the law on the point. I am reading from Mitra's Law of Evidence. "The section does not use the word 'cross-examine' but says that the court may permit 'to put any questions to him which might be put in cross-examination', the reason apparently being that 'cross-examination' being examination by the adverse party the use of the term would be a contradiction. It is noticeable that this discretion of the court to permit the putting of leading questions, or in other words to permit cross-examination is absolute and is independent of any question of hostility or adverseness. It may be given in all cases". It is not necessary to declare any witness hostile; on the contrary this was part of the criminal law of Britain. This law was not imported into India. If you see the objected words of the clause, undoubtedly you will come to the conclusion that it is not necessary to declare a person hostile before cross-examination is allowed. What are the words in this section? We should look to the section. I fail to see how this witness could be declared hostile. Here the words are: ". . . .any part of the statement may be used by the accused and with the permission of the Court by the

[Pandit Thakur Das Bhargava]

prosecution. . . . ." Where is the question that the Court shall exercise its discretion? Even in section 154, the words are: "The Court may, in its discretion,. . . . . ". It happens usually that when a person seeks the permission of the Court, the Court does consider the question to an extent. Here, with these words alone 'with the permission of the Court', there is no question of discretion. A person may give true or false evidence. In England the law is today like this. If a person has given false evidence, his statement cannot be relied upon. In Punjab there was a similar judge-made law but the Punjab Government approached the judiciary to put the law on the right lines and they said that if a person is wrong in one particular instance, it is not necessary that he should be wrong in every instance. In India this is not the rule. The evidence of a witness is not to be washed off. On the contrary, I should say that the first examination and the entire thing will be seen in its proper worth. These are the latest rulings. I have not brought them here because the House knows them well. If anything is necessary, I shall refer to them; any book on evidence will show them the rulings of the many High Courts. In 99 cases out of 100, the police officer or the Public Prosecutor can show that this statement is something different and permission will ordinarily be given and the entire effect of evidence in accused favour from a truthful witness will be lost.

It has been suggested—Shri Gadgil was very eloquent—that the accused and the prosecution should be on the same scale, they are equal before law. He submitted that this statement is not the statement of the person; he did not sign it because law does not allow him to sign it. As a matter of fact, if you ask my honest opinion, I would say that the hon. the Home Minister was kind enough not to give that much of prominence in the amended bill to section 164, which in his opinion it deserved in deference to the wishes of the House and the opinions received from other sources. But at the same time what he has done is much worse than what was expected of section 164 as it appeared in the Bill which he brought first. Under section 164 a man goes before a Magistrate: the police may be behind him. After all, he makes a statement in the Court and signs it . The Court is not interested. But according to section 162 the statement is recorded by the very man who is as interested as the complainant himself, because if the case fails his promotion may be stopped. I would not say he is bribed in every case. A person may or may not be bribed. But I am speaking of over-zealous police officers: if they are corrupt we do not know what they will write. The police officer writes anything he likes. It is not the statement of that man. I would have liked to elaborate on this point much further, but as the time at my disposal is short, I do not propose to do so. But I am certain that the use of the statement under section 164 in the manner originally advocated by the hon. the Home Minister was less objectionable than this provision of permission by the Court.

It only means that every accused is being stabbed from behind. If the statement is that of a witness, he can get copy under section 164. If the investigating officer himself is interested in the case, and comes forward he will say: "The witness stated that". The witness will be confronted with a statement which he may never have made. Yet he will be pinned down to that statement. My humble submission is that this is too much and the House will be well advised not to accept this. This is a very retrograde provision. All the other good things or bad things in the Bill would not be half so injurious to the accused as this provision as this is calculated to make statement under 162 presumptively true and sacrosanct.

Even if a person is ready to be cross-examined, the right is given to the prosecution, to put questions to him in re-examination. In respect of those matters the record may contain something which on re-examination may alter the effect of what is stated in cross-examination. But though the prosecution has been given that right, the accused has been denied that right. The accused cannot re-examine in respect of such statements made by the witness in cross-examination.

Pandit K. C. Sharma (Meerut Distt.—South): How can there be re-examination of re-examination?

Pandit Thakur Das Bhargava: My friend has not followed and is not likely to follow. So, I do not propose to waste my time in replying to him.

Another aspect of this measure which has not been fully considered by the House and to which I want to address myself is this. As I submitted at an earlier stage, under section 162 there are two kinds of statements of which copies are allowed: one, under sub-clause (3) of section 161; secondly any statement which appears in the diary and which is not recorded under section 161 (3). Very often a police officer writes: *"falan shakus ne aj yeh malum karaya"*. This is really the statement of that witness. He puts it in his diary, so that under sub-section (3) he may not give a copy. Therefore, the law in its wisdom said in respect of section 162 that even the copy of this statement which appears in the diary, which is virtually the statement of a witness, though recorded in indirect form, should be given. The present section 162, which appears in this amended Bill is also the same. But when it comes to the operating clause, we only mention statements under sub-section (3) of section 162. We do not mention those statements in the diary which may be very important as subsequent statements taken down. Copies of those statements, according to section 162, the accused is entitled to and there is no reason why he should not get a copy when under section 162 he is entitled to a copy to contradict a witness from that copy. I would respectfully beg of the hon. the Home Minister to consider this point. This is not a question of any great substance. It is a question, perhaps, of oversight and we should put it that copies of statements appearing in other parts of the diary also should be supplied to the accused along with other papers. The accused, as a matter of fact, is not in a position to say whether there is any statement recorded or not. The diary is not open to him. But in sheer justice, in accordance with section 162, it should be made obligatory that the police supply him with copies of statements appearing in any part of the diary. If this is made clause 23 will be consistent with clause 22.

Then I come to the provision that a police officer can sit in judgment over a statement of his own, and should he find that a portion of a statement under section 162 is irrelevant, or in his opinion inexpedient in the interest of justice, according to the old section it was the Magistrate who went into the matter.

The Minister of Home Affairs and States (Dr. Katju): Previously the statement was given at the trial in open Court. Now the statement is given seven days before.

Pandit Thakur Das Bhargava: Where is that seven days? I am yet to see it in the Bill. Have you got a provision to that effect?

Mr. Chairman: The hon. Minister means it will be given well in advance.

Pandit Thakur Das Bhargava: Under what provision? I have moved an amendment; I am only asking the hon. the Home Minister to consider my amendment.

Dr. Katju: It will be given seven days before the trial begins in court.

Pandit Thakur Das Bhargava: I have tabled an amendment which you will be pleased to consider.

According to the Constitution he is entitled to know the grounds of detention or arrest as soon as possible.

Dr. Katju: The very structure of the section provides that copies will be given in advance.

Pandit Thakur Das Bhargava: I am very glad that the interpretation is there. When I spoke at the consideration stage, it never entered my brain that the hon. Home Minister will bring an amended clause 162. He said that section 162 will remain. . .

Dr. Katju: The hon. Home Minister is a wretch—that is the picture that you are painting. The hon. Member is the only person who is on behalf of the accused and I am a person who wants to throttle him.

Pandit Thakur Das Bhargava: You have been pleased to say, Mr. Chairman, that I should not take more time; but these interruptions of the hon. Minister take away my time.

Mr. Chairman: I said so because there are many hon. Members who are anxious to participate.

Pandit Thakur Das Bhargava: I want to leave all time to them. Only I want to have my say. If the hon. Home Minister wants to interrupt in this manner and accuse me and accuse himself. . .

Mr. Chairman: I would request the Home Minister not to interrupt.

Pandit Thakur Das Bhargava: He is perfectly entitled to accuse himself and say he is against the accused. But so far as I am concerned, he should not say that I am against the police. I want our police to be as good as the police in any other country. I am not a bit less anxious than the Home Minister. I have said it several times that I am not for any accused. I am for my country.

Mr. Chairman: If the hon. Home Minister does not interrupt, the hon. Member may conclude soon.

Pandit Thakur Das Bhargava: It is a pity that I am listening to many things. Sir, his own estimate about himself and about us is very wrong. We all respect him.

Mr. Chairman: The hon. Member may conclude his argument now.

Pandit Thakur Das Bhargava: I will certainly conclude my argument if I am allowed to do so.

The hon. Minister said that the statements will be given in advance and I accept it.

Now, so far as section 23 is concerned, the objectionable portion of it is in respect of the proviso which says:

> "Provided that at the commencement of the inquiry or trial the Magistrate shall after pursuing the part so excluded and considering the report of the police officer, pass such orders as he thinks fit and if he so directs, a copy of the part so excluded or such portion thereof, as he thinks proper, shall be furnished to the accused."

Am I not entitled to conclude that the words "Commencement of the inquiry" mean at the commencement of inquiry or trial and not seven days before? So far as this is concerned, my point is that the police officer should not sit in judgment on those statements and refer to the Magistrate that those statements are irrelevant, they are against justice etc. He has himself prepared those statements. Why should he write an irrelevant thing? Why did he put in such things as should not have been put? The Courts also have some difficulty in finding out whether a thing is relevant or not. A thing may not be absolutely irrelevant and if at some stage the Court comes to the conclusion that it is perfectly relevant, if the accused does not know what is there, he will not be able to raise this point. Therefore, my submission is that the order should be a judicial order in the presence of the accused and that too many days in advance of the inquiry. Before the case starts this matter may be gone through so that the accused may be able to represent that the full copy be provided. He may be able to say: "This is relevant and this relates to my defence". Who can say it is irrelevant? I know this provision will be utilised in a very small number of cases and I am referring to those cases. Under a particular section of the Indian Evidence Act, if there is any unpublished record on affairs of State, privilege can be claimed. I do not want that in such cases the prosecution should be asked to disclose everything. But, at the same time in ordinary cases I want that it should be a judicial thing done in the presence of the accused long before the trial begins. If this is done, then I have no objection. I want that the rights of the accused should be safeguarded.

Mr. Chairman: I may bring to the notice of hon. Members that the hon. Minister also desires that he should have at least half an hour.

Dr. Katju: I shall be content with fifteen minutes.

Mr. Chairman: If Members also make their remarks in a brief manner, it may be possible to accommodate three or four more Members.

Shri Raghubir Sahai: Sir, very strong criticisms have been levelled against the new clauses 22 and 23 embodied in the Joint Select Committee's Report. I will not be able to deal with every one of those criticisms but with your permission, Sir, I will take one or two main points of criticisms that have been levelled against the new clauses 22 and 23.

One of the criticisms made regarding clause 22 is that it is an entire innovation to have given the right of contradicting to the police their own witness even with the permission of the Court. It has also been argued that not only it is an innovation, but it will work against the interests of the accused. It has also been said that it is an entirely new principle of criminal jurisprudence with which no lawyer has been so far familiar. So far as the statement of a person and its value is concerned, I think every one who is associated with the profession of Law will agree that the value of any statement can only be judged when it is made before a Magistrate or a Judge on oath, when the person making it has been properly examined, when an opportunity has been given to the other side for cross-examination and when the witness, if it is necessary, has been re-examined. When all these tests have been gone through, then and then alone the veracity or otherwise of a statement can be established. So, when a statement has been made before a police officer and that witness comes up before a Magistrate all these tests should be applied. Let him make a statement on oath. Let him be cross-examined and if necessary re-examined. Where is the harm? One of the arguments put forward is that so far that right was denied to the prosecution to contradict its own witness. But, if you take all those tests into consideration then it will not be against any of the well-known principles of criminal jurisprudence. If the counsel of the accused is being given full opportunity to test the veracity of a prosecution witness by his cross-examination, then let that cross-examination be made by the prosecution counsel also to test the veracity of the statements that he has made before the police and again before the Magistrate.

Pandit Thakur Das Bhargava: Does the hon. Member think that the statements will be utilised for the purpose of further cross-examining the prosecution witnesses?

Shri Raghubir Sahai: Not a bit of it. When hon. Members are attacking this provision I quite agree with them so far as their lurking suspicion is against the police because nobody in this House and no sane man outside has ever contended that our police is very honest, is very efficient or that it requires no further improvement. Nobody has said like that. But, the same lurking suspicion should not be extended to the Magistracy as well as to the judiciary also. You are in a

[Shri Raghubir Sahai]

way insinuating that, the magistracy and the judiciary, will also not exercise their discretion properly. Sir, we come across, every day, instances of police manipulation, of police concoction. How do they come to the notice of the public? They come to the notice of the public because of these strictures of the High Courts and Supreme Court. The Judges are there to see whether the statement is to be believed or not to be believed. So, there is nothing very astounding about this. We should not consider it in that light, that if the prosecution is being given this right then the accused is bound to be prejudicised. Sir, I submit that there can be cases where a witness makes an honest statement before a police officer. In that particular case, where an honest statement has been made before a police officer and that witness is being tampered with subsequently, if in the course of his examination before the Magistrate he says something which is entirely contrary to the statement that he has already made before the police officer, do you mean to say that, that witness should not be further tested, his veracity should not be tested because he has made a statement before the police officer which is sacrosanct? That will be too much. My hon. friend Pandit Thakur Das Bhargava has got very great experience of law and of the legal profession. All his opinions are entitled to very great weight. But, in this particular case he is carrying things too far. He is tarring the police as well as the magistracy and judiciary with the same brush.

Pandit K. C. Sharma: He is not prepared to buy another one.

Shri Raghubir Sahai: So, my submission is that this innovation should not astonish us altogether. On the other hand, this is an innovation which will give the prosecution a further opportunity to test the veracity of the witnesses when they have produced before the Magistrate or before the Judge.

2 P.M.

With regard to clause 23 also, very remarkable arguments have been stressed, that is, that although the police will be required to give a copy of these statements much before the trial begins to the accused or to his counsel, why should a portion of the statement of a witness be withheld if according to the police it was against the interest of the public or related to some secret thing or it was not relevant? Why should the police be the judge of the relevancy or otherwise of these statements that have been made before the very police? Lots of criticisms have been made on that score. Even now, as it is, we are supplied with copies of the statements, and at times some of them are withheld, but in those cases, the accused or his counsel naturally approaches the Magistrate and argues upon the matter, and if the Magistrate considers it necessary that the withheld portion should be disclosed, he gives his permission and the statement is supplied to the accused. Similarly, in this clause, if somehow, either in the interest of public justice or on account of the secret nature of the statement, a certain portion has been withheld, the accused and his counsel have got a free right to go to the Magistrate and to request him to read the entire statement himself and be convinced whether that particular portion has been rightly withheld or has been wrongly withheld. We should give that amount of discretion to the Magistrate and if he comes to the conclusion that it has been wrongly withheld, naturally he will order that that statement should be supplied to the accused. My submission on that score too is that we need not suspect the police, the magistracy and the judiciary at the same time. I am not here to applaud all the actions of the police. I am quite at one with my friends who say that the police requires a lot of improvement and personally I am convinced that the hon. Home Minister also wants that further improvements should be made in the administration of the police, in the way in which they investigate matters, that their investigation should be speedy, that their investigation should be efficient and honest. I am quite at one with my friends who urge that point, but here when we are discussing the provisions of the Criminal Procedure Code, I think it will be too much to stress on that aspect of the matter regarding the police. That the police should be improved is entirely a different matter and we should leave it at that.

I am grateful to you for giving me this opportunity to speak, and I think my remarks should satisfy the House that there is no need to feel aghast at the changes that have been made in these two sections.

Shri Pataskar (Jalgaon): I shall try to be very brief because the point has been discussed almost threadbare. The main question with respect to clause 22 is wherein the words occur "with the permission of the Court, by the prosecution". I will try to put before the House the fact that in such matters we should not regard the accused from the same point of view as the prosecution itself. A statement is not signed, as my learned friend just now pointed out, but the basic approach to the question should be that whenever a statement made by the police is used for the purpose of contradicting the witness by the accused, what is being done is that in the whole story of the prosecution case, there is part of a record which is inconsistent with what the witness is now telling the Court, and as such the accused is very rightly entitled that he should use that part of it for cross-examination. But in the case of the prosecution, it is a different matter. It is the police themselves using a part of their own record; it may have been recorded at a time when the accused was not present, and he may not have signed it also, and to burden him with this liability is certainly not desirable and it will offend against the ordinary principles of justice and I believe that is not right. I realise the object with which the hon. Home Minister is introducing this. What makes them propose these changes is this. Witnesses on a large scale are tampered with and, therefore, they may tell something to the police and subsequently when the case goes before the Court, the witnesses turn round wrong. They think that this is done on such a large scale that they want some sort of improvement, but that object cannot be achieved by introducing merely a provision like this. For that, we have to improve the very way in which investigation is being carried on. I know there are countries like England where such use of statements is allowed, but the position is different here. In India, for very good reasons, we have laid down that these statements shall not be signed and we continue with that provision also under the present Act. Therefore, the fear is that, with the system as it stands now, if use was allowed to be made of this provision with the permission of the Court, so far as the accused is concerned, he may not stand to get a fair trial in a court of law, and all sorts of prejudice will be created against him. Therefore, if the hon. Home Minister could accept something like this "Provided further that the statement or any part thereof so recorded by the police shall not be used as evidence against the accused". —the main objection is to this sort of cross-examination—then much of the criticism may not be there. It would have been much better if we had dropped it. After all, I believe more in proceeding by compromises, and I think the main purpose is served by my suggested amendment. If this amendment is acceptable to the hon. Home Minister, then I would propose that we add a further proviso—

> "Provided further that the statement or any part thereof so recorded by the police shall not be used as evidence against the accused."

Look at it from the basic point of view. Evidence or statement recorded in the absence of a man by the police must never be used as evidence against him.

Shri S. S. More: How does this amendment serve the purpose? If the statement is used for the purpose of contradiction, with the permission of the Court, and some material is brought on the record, the whole thing has to be taken together.

Shri Pataskar: Suppose there is a witness who comes and makes a particular point or statement before the Court. Then he turns hostile, as they call it. Then the question arises as to his cross-examination. Ordinarily, as the law stands, whenever a witness has turned hostile, no Court normally attaches any importance to the evidence of that person who has said one thing at one place and another thing at another place. However, there are rulings, where the Court, as a whole, might rely on certain parts of that statement and not rely on certain others, but if this amendment is accepted, what will happen is that the statement or part thereof shall not be used against the accused. The Court or the Magistrate cannot use that for any purpose whatsoever......

Pandit Thakur Das Bhargava: Am I to understand that the hon. Member has obtained the consent of the hon. Home Minister for this particular amendment?

Shri S. S. More: Is the Home Minister accepting it?

Mr. Chairman: This is a new amendment. This has to be put to the House.

Pandit Thakur Das Bhargava: Will we get an opportunity to consider this amendment? It is entirely a new thing. Is the hon. Minister pleased to accept it?

Dr. Katju: I think it should be accepted on the ground that, in my humble opinion, that is the law of the land. Therefore, it was being introduced in order to make them doubly sure. Otherwise, it is just like the statement under section 164. The rulings are quite clear that the statement recorded by a witness on oath under section 164 is not independent evidence of the facts so recorded and there are Privy Council rulings and other rulings on this. Similarly, here, this statement is going to be used for the purpose of satisfying the Magistrate, one way or the other, that the witness is not a truthful witness or he is not a truthful witness, and whether he is going to have individual evidence against the accused. I have always understood the law to be so.

Shri Pataskar: The whole idea underlying this amendment is this. Supposing a man has said something before the police and has said something different in Court. Is he going to be cross-examined only for showing that he is not a reliable witness? The amendment will have the effect that the statement before the police will not be relied upon by the Court as evidence against him? It goes, to some extent, to meet the objection.

Then, with respect to clause 23, I would only suggest to the hon. Minister one thing. The proposed clause reads as follows:

> "Notwithstanding anything contained in sub-section (4), if the police officer is of opinion that any part of any statement recorded under sub-section (3) of section 161 is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests."

Then, he can withhold the copies. I would appeal to the Home Minister to take this into account. I think it should not be left to the police to determine whether it is relevant or not, because, after all, the police know only one side of the picture.

Dr. Katju: I hope to satisfy the House on this point later.

Shri N. S. Jain (Bijnor Distt.—South): The Magistrate can get it.

Shri Pataskar: I do not want the police to decide the matter, initially also, for themselves. What they might decide as not relevant, the accused might regard as perfectly relevant.

Mr. Chairman: It is ultimately for the Magistrate for whom it is to see whether the police officer is right or wrong.

Shri Pataskar: Of course, I have noted the proviso which says:

> "Provided that at the commencement of the inquiry or trial, the Magistrate shall, after persuing the part so excluded and considering the report of the police officer, pass such orders as he thinks fit and if he so directs, a copy of the part so excluded or such portion thereof, as he thinks proper, shall be furnished to the accused."

I shall explain the handicap that might accrue to the accused. First, his statement is excluded as being not relevant, and second, its disclosure is not necessary in the interests of justice. These are the two things which will be preliminarily determined by the prosecution and not by the accused. Even if they are shown to the Court, the Court is not in possession of the case of the accused. It is for the accused to make the defence, and he has got his own defence, and it is he who can decide this matter.

Dr. Katju: And the Magistrate?

Shri Pataskar: Before he gets a copy, how can the accused decide?

Mr. Chairman: It would be very useful for the defence of the accused, as the Magistrate so far does not know whether the accused can say whether it is relevant or not. Therefore, the Magistrate also, at this stage, would be in a handicap to decide and ascertain. He might say that it is not relevant, but at the same time, the accused might think that it is of very great importance to him. This is the point.

Shri Pataskar: I am not speaking either in favour of the prosecution or the police or the accused. The question is that the thing goes to the police officer and the whole statement might be made use of by him. Of course, in so far as it is in the public interests, I am prepared to concede it. But so far as its relevancy is concerned and—whether in the interests of justice, it should be withheld or not—I think, that if it is withheld from the accused, it may yet go to the Magistrate; but that is a minor point, and the Minister may accept it.

Shri N. S. Jain: I want to put a question to the hon. Minister. There was my amendment No. 289. It was about section 172 regarding case diary. Would the hon. Minister give us an assurance that something would be done to see that they are not tampered with and that they are maintained correctly?

Dr. Katju: I shall take the second point first. I am rather surprised that one matter should have been overlooked. The clause about the Magistrate is nothing but a reproduction of the proviso to section 162. If hon. Members will please turn to section 162 of the Code of Criminal Procedure, as it stands today, they will find the proviso running thus:

> "Provided, further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused."

Under the current procedure, the statement is handed over to the accused in open Court, and in handing over, if the police is of the opinion that something should be withheld, they just hand over the copy to the Magistrate and say to the Magistrate, "Sir, the passages marked in this statement as A, B, C and D, are against public interests or the interests of justice and are not relevant and therefore these passages should not be given to the accused." The Magistrate reads them. There is no enquiry. There is no argument.

[Dr. Katju]

The accused gets a copy of each of the passages that should be supplied to him. When we were drafting this Bill before the Select Committee, the question arose that we are changing the date of handing over. It is not going to be handed over during the trial. It is going to be handed over before the trial. There were two courses open to us. One of them was: if there was anything objectionable in any part of the statement of the witness, then do not give that statement as a whole. Supposing there is Ramnarayan who has been examined, and his examination comes to two pages. In those two pages the police thinks there are two lines which should be withheld, then, the Court says: withhold the entire statement. Hand it over to the Magistrate. Invite his judgment, or order may be had on those two lines. After the Magistrate has delivered his order, the order is complied with. Either hand over the whole statement or hand over the statement minus those two lines. We thought it would be fair to the accused to allow the police, for the time being, to withhold those two lines and hand over the remaining statement, and then, if the case goes before the Magistrate, immediately invite his attention to those two lines and say: "For the time being, temporarily, the police has withheld those two lines. What is your order?" So, we have reproduced proviso to section 162 word for word, in the clause. That clause, I remind you again, covers three things: relevance, public interest and interests of justice. Therefore, I respectfully submit that there is no substance in the objection which has been taken or the fears which have been expressed in saying that the draftsmen have added something. It is not 'added.' but we have virtually reproduced the proviso to section 162.

Shri S. S. More: May I ask one question for clarification? Supposing on the first day on which the accused and the other parties come into the Court, and that particular relevant portion which is accepted as being irrelevant is submitted to the scrutiny of the Magistrate, and the Magistrate gives a finding that it is irrelevant; but if once that finding is given, and during the course of the trial, it becomes relevant in the light of other facts brought on record, will the Magistrate be competent to revise his order?

Dr. Katju: The answer to that question is: what is the current procedure? Exactly the same difficulty may arise under the current Code. The current provision is: Ramnarayan comes into the witness box and he is No. 2 witness. The Magistrate orders that these two lines should be withheld. After five other witnesses have been examined, these two lines may become relevant. Then, the Magistrate may say, very well, hand over a copy. If a postponement then becomes necessary, the postponement may be granted. My respectful submission is, we should take a broad view of the case today and not go into minor details which may or may not arise. I was rather anxious to satisfy the House that the objected portion of this proviso is a textual reproduction of the existing law which everybody has accepted to be correct.

Shri S. S. More: In substance.

Dr. Katju: Now, I go back to the main question. Instead of my indulging in any arguments, please look at the picture. Today, for the majority of witnesses, there would be no cross examination on oath before the Committing Magistrate. You know, Sir, much more than I, what actually happens. It is a matter of common knowledge that in the last 5, 6 or 7 years, there have been great attempts made to suborn witnesses. You read judgment after judgment. It may be that it is due to the naughtiness of the police, but witnesses always change They have got nothing except the police statement. I do not see any particular objection to this course. What happens? Take one illustration. There are eight accused persons, who are said to have committed a murder or dacoity or whatever it is. The police produce a witness and he is supposed to be an eye-witness. He is asked: how many people were seen at the time of the occurrence? He can say eight because there are eight accused; but he says four. He is either trying to take shelter or the police are trying to implicate four innocent persons. Immediately the question arises, what did he say before the police. Supposing he has said before the police, as the records stand, eight, and he is saying four now, in the first place, I would submit that the Magistrate would not, merely because he has said four now, characterise him as an untruthful witness. He will go on recording this statement. He records further statements. The Magistrate begins to suspect that the man perhaps is siding with the defence either wholly or partially and then the Prosecuting Inspector or the Public Prosecutor says, will you please give me permission to cross-examine him? The Magistrate says, very well, you do. It may be the Sessions Judge, it may be the Magistrate. This is the form that this cross-examination takes. He is asked: were you examined before the police? He says, yes. Then, the question is. did the Police Sub-Inspector examine you within three days? He says, yes. The next question is, did he ask you, how many people were there? He says, yes. He is asked, what did you say to the police? Either he says that I said 8. Then, no question of contradiction arises because he admits it. The next question would be, when you stated before the police that there were 8, you now say that there were four; how do you reconcile the discrepancy? He may give the reasons. He may say that there was difficulty in counting, or that he thought that the spectators were also offenders, etc. Supposing he says. I said before the police that there were four, I did not say that there were eight, what happens? The Sub-Inspector then goes into the witness-box and he is asked, did you examine Ramnarayan? He says, yes. The next question is, did you ask him how many persons were there? He says, yes. He says that he told him that there were 8. The question before the Magistrate is, who is telling the truth? Is this man who says today before me that there were 4 telling the truth or did he make a true statement before the police? The statement that there were 8 in the police statement is never evidence in the case. That statement can only be utilised for the purpose of determining as to whether this particular witness is a reliable witness or a dependable witness or whether he is trying to make a right statement or a wrong statement about the number 4 or 8. If anybody says that I am much too punctilious, I may remind my hon. friends Pandit Thakur Das Bhargava and Shri S. S. More about the cognate section 164. The section 164 statement can be utilised for contradicting a witness, but can never be used as a positive evidence against the accused.

Pandit Thakur Das Bhargava: Can't it be used for corroboration purposes?

Dr. Katju: No. There is no question of corroboration. When a witness is making a statement, there is no question of corroboration. If I have been persisting in my story, if I have been saying that there were 8 accused, right through, from the start, the question of corroboration does not arise. You might all remember one very famous case—will you kindly listen to me, Shri More? —I am sorry, I should have addressed the Chair. In the B. B. Singh case, a very famous case, the Privy Council ultimately acquitted the accused on the ground that two statements made by two witnesses before a Magistrate under section 164 had been wrongly utilised against the accused by the Chief Court. They say it is a mistake which should not have occurred. Similarly I say in such cases when a witness is confronted with his own recorded diary statement, it is only for the purpose of showing whether he is false or whether he has taken sides with the accused.

Pandit Thakur Das Bhargava: The police officer becomes a Magistrate

[Pandit Thakur Das Bhargava]

and an unsigned statement is equal to a signed statement before court.

Dr. Katju: When a man is cross-examined by the defence, what happens? Supposing he had said before the police that there were only 4 offenders at the time of the commission of the murder and then he comes to the trial because he has been added by the police or whatever it is and says 8, what does the defence mean? By confronting him with the diary statement? He is asked, were you examined by the police? He says, yes. He is asked, how many people did you name before the police? He says, four. The argument is that this man should not be relied upon when he says today that there were 8 because, before the police he had said, four, and his evidence is therefore untrustworthy and unreliable. It is not a question of this evidence or that evidence. Similarly, I say, in this discussion, it is not a question of doing anything harmful to the accused or taking something in evidence against the accused. The question is that the Court should have ample opportunity of determining whether a particular witness before the Court is telling the truth or telling lies, is telling the truth against the accused or in favour of the accused, telling lies against the prosecution or against the accused. In both the cases, the Judge should have ample opportunity. This is one of the basic things. The question is whether the man is reliable or unreliable as to what he said on that particular matter before the police in a criminal case or before anybody in a civil case. I said that I have no objection in accepting the amendment if my hon. friend moves it. I said so because that is the law of the land. I am not making any particular concession to the accused. That is the law of the land.

Some other amendments have been moved. I say that the system of police investigation should not be disturbed. My hon. friend Shri N. S. Jain put me question upon question. Probably, the House is aware that we are going to hold a meeting of all the Home Ministers of India and the question before them would be, how to improve the police investigation, how to improve the art of detection, the art of keeping diaries......

Shri V. P. Nayar: The art of using third degree methods?

Shri Sadhan Gupta (Calcutta—South-East): The art of fabrication......

Mr. Chairman: Order, order. Let us hear the hon. Minister. The time is over.

Dr. Katju:......so far as criminal trials are concerned, how to improve the art of investigation, how the diaries should be recorded and how the diary should never be interfered with. If we become much too strict and say that the police diary should be kept in this way, or that the record should be kept in this way, then instead of making an investigation efficient, we shall only be making it a little inefficient, because what is required is that a police officer, instead of being very eager in taking down statements, word by word, of twenty witnesses, should go after the accused, should run after him, should go this place or that place, should go here or there, and follow all the clues with the utmost diligence, and finish the case within three days.

That is the reason why I suggest that we should not interfere with the present structure of the Code, in so far as police diaries are concerned. That is all that I have to say.

Mr. Chairman: I take it that Government accept this amendment that has been tabled by Shri Pataskar.

Pandit Thakur Das Bhargava: If this amendment is going to be accepted by Government, I submit that mere acceptance by Government would not make it a rule of the House. It should be examined here; it should be subjected to critical examination by the

House, and the House should be allowed to move amendments to this amendment also. Also, we should discuss this amendment, according to what the Evidence Act has to say on this point. The word 'evidence' has been defined in the Evidence Act in a particular way. How can we just take away the effect of the word 'evidence' as defined in the Evidence Act.

What is this amendment? We would like to know. It has not been circulated yet.

Mr. Chairman: This is the amendment that Shri Pataskar has declared his intention to move. Shall I say like that?

Shri Pataskar: Shall I move it?

Mr. Chairman: It has not so far been moved.

Shri Pataskar: I think I said in the beginning......

Pandit Thakur Das Bhargava: How can it be moved without the permission of the Chair?

Mr. Chairman: That was my difficulty also, namely that I could not allow it to be moved.

Shri Pataskar: I express my regret if I have not got the permission of the Chair. If I have not got the permission of the Chair, then certainly, it is a breach. But I would request, in the first place, the Chair to give me permission to move this amendment; and if permission is given, then I shall move my amendment.

Mr. Chairman: Before giving that permission, I have to find out whether Government also are going to accept it. Unless that were the case, there is no time now to allow further amendments. Are Government accepting this amendment?

Dr. Katju: I have no objection to this amendment.

Shri V. P. Nayar: What is that amendment? We want to know.

Mr. Chairman: Government are accepting it. In that case, I think I should not have any objection to the amendment being moved. Let it be formally moved now.

Shri Pataskar: I beg to move:

In page 6, *after* line 17, *add*:

> "Provided further that the statement or any part thereof so used by the prosecution shall not be used as evidence against the accused."

I do not know what is the harm in this......

Pandit Thakur Das Bhargava: Some harm is there. Still, it is good, because it makes the position clearer.

Shri Pataskar: There is no reason why people in the Opposition also should not accept it.

Shri S. S. More: It is meaningless.

Shri Pataskar: That may be your view.

Mr. Chairman: Unless it is put to the House, how can we give that verdict?

Shri S. S. More: I am only seeking your clarification on this. If any amendment tries to make the whole clause meaningless, then that amendment will be deemed to be out of order.

Shri Pataskar: I can use the same words for the hon. Member. It is not meaningless; on the other hand, it is full of meaning, which the hon. Member fails to comprehend.

Mr. Chairman: It cannot be ruled out of order, simply because one Member dislikes it and considers it as meaningless. I shall read out the amendment presently. If hon. Members want to put in amendments to this amendment, I will allow that. If there are any further amendments, and hon. Members want to speak on them, I can allow an opportunity to them; if any hon. Member wants to speak or wants to give an amendment to this amendment, I shall allow that. If it is meaningless, we can make it full of meaning.

Pandit Thakur Das Bhargava: It has got a meaning.

Mr. Chairman: Amendment moved:

In page 6, *after* line 17, *add*:

> "Provided further that the statement or any part thereof so used by the prosecution shall not be used as evidence against the accused."

This is the amendment that is moved. Is it the desire of hon. Members that they should have an opportunity to move amendments to this? Or in their speeches—if we take a few more minutes on this—they can make the suggestions for amendments, and we can discuss this, and conclude within fifteen minutes. What is the sense of the House?

Shri S. S. More: We are specially handicapped, because we have not got a copy of the amendment that has been moved. According to the latest amendment of the Select Committee, a part of the statement might be used for the purpose of contradicting a witness, and when it is so used, it becomes a part of the evidence. Now, how can a statement, or any part of a statement, which is to be a part of evidence, be excluded from the body of the evidence, and how can it be said that it will not be used against the accused? That is my difficulty. When it is not part of the evidence, and it is not brought on record, then, even according to the present law, under section 162, it is never taken into consideration, and the Court is not permitted to take them into consideration. So, we must know the significance of this. Supposing it is already brought on record, and a question is put: 'You said this then, now you have stated in the police statement this, is it a fact or not, which is correct', and something is given by way of reply, then it becomes part of the evidence, and it is brought on the deposition.

Mr. Chairman: If the House agrees we might hold it over, and assign another fifteen minutes within which hon. Members can send in their amendments or any proposals that they have to make, and we can take them with the subsequent programme; we will decide it subsequently, and we will assign some time for it.

Shri Amjad Ali (Goalpara—Garo Hills): In that case, the whole clause will have to be put off.

Mr. Chairman: The whole clause shall stand over, and we will give further thought to this amendment, because it has been introduced just at the last moment, and accepted by Government. We can take up the other clauses just now.

Shri Raghavachari (Penukonda): Now that you are inclined to hold over the consideration and the decision on this clause to a subsequent time, may I be permitted to suggest that this amendment may be circulated, and it may be taken up tomorrow for fifteen minutes or some more time? In the meanwhile, we may be permitted to give other amendments; we will hand them over tomorrow by eleven o'clock, and the matter can then be discussed on the floor of the House.

Mr. Chairman: Yes. If we hold it over, certainly this will come up tomorrow, and hon. Members can send in their amendments to this amendment, if they so choose.

Shri Sadhan Gupta: May I make a submission as regards the time-limit? *Prima facie*, it seems that it is a very important amendment, and it may involve many legal and other questions, and every group in the House might be willing to advance their arguments; and particularly, there are very eminent lawyers who might throw very great light on that. Therefore, I think, fifteen minutes would be too short a time to allot for this.

Mr. Chairman: Then, I shall leave this question to be decided later. It will be decided after these amendments are received. If it is seen that there is something important in that, and that requires further discussion, that will be decided after we have seen these amendments. So, this will stand over, and the time that is to be allotted to this particular thing will also be decided subsequently.

Shri Sadhan Gupta: But may I submit that, by tomorrow, we will not receive copies of this amendment, and they may not be circulated?

Mr. Chairman: I am informed by the office that the copies will be distributed among hon. Members by tomorrow morning; and if it is possible, it will be arranged that they might have it by the evening.

Shri Pataskar: May I make one submission? If I might clarify the purpose of my amendment, for the sake of hon. Members to appreciate its significance, that might clear the position. When I moved this amendment, I never thought that there will be such an amount of controversy over it.

Mr. Chairman: Why should we clarify it here, when we are assigning some other time subsequently for this?

Shri Pataskar: What I meant was that if the generality of people do not want it,—for somebody calls it meaningless, and somebody else calls it vexatious and so on—I am prepared to withdraw it.

Pandit Thakur Das Bhargava: Since it has been moved already, it cannot be withdrawn.

Mr. Chairman: The hon. Mover of the amendment should not feel upset, because some hon. Member calls it meaningless; every hon. Member has got his right to say what he feels.

Shri Pataskar: I am not upset, but I thought it will be......

Mr. Chairman: That would be seen, when it is taken up.

Dr. Krishnaswami (Kancheepuram): The House does not give you leave to withdraw.

Shri V. P. Nayar: There is another obvious difficulty. Supposing we get copies of this amendment this evening, it will not be possible for us to get our amendments circulated.

Mr. Chairman: The office says that it will supply copies of this amendment just after a short time: it will be possible.

Now, we shall take up the amendments that are there to the other clauses. Amendment No. 369 by Pandit Thakur Das Bhargava in respect of a new clause, 21A, has ben ruled out and it is outside the scope.

Pandit Thakur Das Bhargava: It has not been ruled out. On the contrary, the hon. Deputy-Speaker was pleased to say that he would hear me and I have just submitted for the consideration of the House that it cannot be ruled out; it should be accepted by the House. In view of what has fallen from the hon. Home Minister as well as from the Chairman of the Select Committee, it is an eminently good amendment for being accepted.

Mr. Chairman: So no decision has been taken so far on it?

Pandit Thakur Das Bhargava: None was announced in this House. From his speech you could see.

Mr. Chairman: I did not know it. From the information I got, I gathered the impression that it had been decided. I will find out and if it has not been decided, it will also stand over and a decision would be taken.

Pandit Thakur Das Bhargava: The hon. Deputy-Speaker said in this House......

Mr. Chairman: I am telling the hon. Member that it will stand over, if it has not been decided. I presume it has not been decided, because the hon. Member says so. Therefore, a decision would be taken. If there was an assurance that the hon. Member would be heard, he would be heard.

Then there is amendment No. 53 by Shri R. D. Misra. That is also relating to a new clause, 21A. So that will also go with that. So far as clause 22 is concerned, that is held over. As regards amendment No. 287 by Shri R. D. Misra, that is also outside the scope.

Shri R. D. Misra (Bulandshahr Distt.): No, Sir. I have not been heard on that. It has not been decided as yet. It is relevant.

Mr. Chairman: It is not to be discussed *de novo* and decided *de novo*. What I gather from the note before me is that a decision has been taken.

Shri R. D. Misra: The Deputy-Speaker told us that he would hear us.

Shri S. S. More: It is an *ex parte* decree now.

Pandit Thakur Das Bhargava: The thing happened like this. When these new clauses were being considered, the Deputy-Speaker was pleased to say that he would hear us as to whether they were vitally connected with the other amending sections and then he would decide.

Shri S. S. More: What the Deputy-Speaker spoke was *obiter* or by way of a ruling—that is the question.

Mr. Chairman: I was not present then. I am not familiar as to what proceedings took place. Therefore, the mistake has occurred. So if that is the case, that a decision has not been taken, I will not declare them as outside the scope. I would like to take up the other clauses that we have before us.

Now, we will take up the amendments that are there. First there is amendment No. 465 to clause 20.

The question is:

In page 5 *after* line 37, *add*:

"(1B) Notwithstanding anything contained in sections 145, 146 and 147, if the parties to the dispute before the Court or Magistrate come to a compromise and present it in writing, the compromise shall be recorded and the Court or Magistrate shall drop the proceedings."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

Mr. Chairman: As regards clause 21A, it is held over. Clause 22 is also held over. There is amendment No. 310 to clause 23. I presume hon. Members want that all the amendments should be put separately.

Pandit Thakur Das Bhargava: Yes.

Shri V. P. Nayar: We should be given some time.

Mr. Chairman: We are already very late. The question is:

In page 6, line 24, *after* "the principal Act" *insert*:

'(a) in sub-section (1), after the words "without unnecessary delay" the words "that is, within fifteen days from receipt of information under section 154 or an order from the Magistrate under sub-section (3) of section 155 of the Act, or, at the latest, within thirty days if there are rare and extraordinary circumstances" shall be inserted; and (b)'.

The motion was negatived.

Mr. Chairman: The question is:

In page 6, line 24, *before* "for sub-section (4)" *insert*:

'(a) for clause (b) of sub-section (1), the following shall be substituted, namely:—

"(b) send a copy of the report referred to in clause (a) to the person, if any, by whom the information relating to the commission of the offence is laid": and (b)'.

The motion was negatived.

Mr. Chairman: Then there is amendment No. 373.

Pandit Thakur Das Bhargava: I think it relates to *zimnies*. It is for a new clause.

Shri N. S. Jain: Amendment No. 372 is relating to *zimnies*.

Mr. Chairman: I am reading from the records. The question is:

In page 6, line 27, *for* "shall" *substitute*:

> "Shall at least fifteen days".

The motion was negatived.

Mr. Chairman: The question is:

In page 6, line 27, *after* "shall" *insert*:

> "as soon as possible and in Session cases not less than fifteen days and in other cases not less than ten days,".

The motion was negatived.

Mr. Chairman: The question is:

In page 6, line 27, *after* "before" *insert*:

> "ten days and in no case less than a week".

The motion was negatived.

Mr. Chairman: The question is:

In page 6, line 32, *after* "including" *insert*:

> "the remarks of inspection note, if any, made at the time of the local inspection of the place of occurrence and".

The motion was negatived.

Mr. Chairman: The question is:

In page 6, line 34, *after* "section 161" *insert*:

> "or recorded in any part of the police diary or otherwise".

The motion was negatived.

Mr. Chairman: The question is:

In page 6, *omit* lines 37 to 51.

The motion was negatived.

Mr. Chairman: The question is:

In page 6, *omit* lines 37 to 45.

The motion was negatived.

Mr. Chairman: The question is:

in page 6, lines 39 to 41, *omit*:

> "is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and".

The motion was negatived.

Mr. Chairman: The question is:

In page 6,—(i) line 40, *for* "or that its disclosure to"; and (ii) *for* lines 41 to 51, *substitute*:

> "he may, after obtaining the previous permission of a Magistrate, exclude such part from the copy of the statement furnished to the accused."

The motion was negatived.

Shri V. P. Nayar: Let us try to find out who has moved the amendment and what it is and......

Mr. Chairman: Every hon. Member is expected to be ready with his own number and the contents of that amendment. I shall put amendment No. 57, now.

The question is:

In page 6, *after* line 51, *add*:

> "(6) In cases where the previous sanction of the Central Government, State Government or any other authority is necessary for taking cognizance of an offence by the court, the police officer shall not forward his report to the court without obtaining the required sanction in writing of the authority concerned."

The motion was negatived.

Mr. Chairman: I suppose there is no other amendment to this clause 23. If there is any, any hon. Member might

[Mr. Chairman]

bring it to my notice. I shall now put clause 23. The question is:

> "That clause 23 stand part of the Bill."

The motion was adopted.

Clause 23 was added to the Bill.

Dr. Katju: Will you put clause 24 also?......

Shri Venkataraman (Tanjore): Before you proceed to the other clause, I want to draw your attention to the fact that you have stated that clause 21 will stand over. There is no amendment to clause 21 and there is no reason why it should stand over.

Mr. Chairman: I only said that clause 21A. will stand over. I shall put clause 21 now. The question is:

> "That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Dr. Katju: You may also put clause 24; it is formal.

Mr. Chairman: The question is:

> "That clause 24 stand part of the Bill."

The motion was adopted.

Clause 24 was added to the Bill.

Clauses 25, 97 and 114

Mr. Chairman: Now, we proceed to the next set of clauses: 25, 97 and 114. They are open for discussion. Hon. Members who want to press their amendments may kindly pass on the slips within the next fifteen minutes. We shall now proceed with these clauses. The time for discussion of these clauses is five hours......

Shri Amjad Ali: The time begins to run from now?

Mr. Chairman: Yes, from now.

Shri Sadhan Gupta: Mr. Chairman, if it is possible to call any clauses particularly reactionary in this very reactionary Bill, it is these clauses—particularly clause 25 and clause 97. What is sought to be done by clause 25? The present law is that only an aggrieved person can start a prosecution for defamation by complaining. It is now sought to provide that in a case where the President, Vice-President, Governor, Rajpramukh or a Minister or a public servant is involved in the case where any defamation occurs in respect of their public functions, the whole State may stand behind them; the whole State may prosecute and complain on their behalf because a complaint may be lodged by a public prosecutor.

Even in British days, we had Viceroys; we had Governors; we had other dignataries. But, still, even they did not dare to introduce this kind of an odious distinction between citizens and citizens or even between citizens and rulers.

Clause 97 seeks to amend section 503. It also introduces a very odious principle that some citizens of India are to be treated in a different fashion as a witness simply because of the fact that they happen to be either the President of the Union or Vice-President of the Union or a Governor or Rajpramukh of a State. They are to be put up as if they are on a different pedestal from the common ranks of the citizens of the country. This is a kind of distinction which we can never look upon with equanimity; it is revolting in principle. I for one, my party for one and I take it every Member of the Opposition—all of us have the greatest contempt for these principles and would oppose these principles tooth and nail. I take it that even in the Congress ranks, some people would be found who would not be too happy; their conscience would prick at the principles sought to be introduced.

What justification has the Home Minister given for introducing this kind of provision? What justification has he given for treating the President, Vice President, Ministers and public servants on a different footing in the matter of prosecution in respect of defamation? What justification has the Home Minister given for treating the President differently as a witness, or for treating the Vice-President, Governor, or Rajpramukh, differently as a witness? May I ask the Home Minister if there is any precedent from any other country? Presidents are not known only in India; Vice-Presidents are not known only in India; Governors are not known only in India. Can he point out any other country in the world where in the matter of prosecution for defamation or even more in the matter of being treated as a witness, they stand on a different footing? What earthly justification can the Home Minister give us for introducing this provision?

As regards treating them as witnesses, he has not given us any justification. He has not told us why it is necessary to provide that the President shall not appear before the Court; that the President shall not face the Court of justice and shall not submit to examination as other citizens do. He has not told us why and how the President is a superior being to other citizens. If a President is entitled to any respect, if any Vice-President is entitled to any respect or if a Governor or a Rajpramukh is entitled to respect, they are entitled to respect only by virtue of their individual character or individual personality.

The principle of every democracy is that every citizen is alike, be he a Governor, President or Vice-President or a Rajpramukh. It is the elementary principle of democracy that it is open to every citizen to become the President Vice-President, Governor or Rajpramukh. Therefore, there is no reason why the President or Vice-President or such other dignataries should shrink from the witness box or should shrink to prosecute the defamer as the other citizens do. He has not given us any excuse as to why they are to be treated differently as witnesses. But, he has given us some excuse as to why they should be treated on a different footing as regards prosecuting alleged defamation committed against them. But that excuse has made the case worse.

As far as I can see, his trump card was: why should you complain? Why should the Press complain? They should be happy. What is being given is the opportunity of exposing corruption. What is being given is the opportunity of proving the charge which you have levelled by bringing the case into the Court. This kind of thing or argument is, to say the least, only perverted logic. I could have understood that the idea of the Home Minister was to give opportunity of exposing corruption if he had provided that when a person is charged with some corruption or wrongful act or some act which lowers him in the estimation of the public in respect of the discharge of his public functions, he should be prosecuted or there should be an open enquiry held against him and he should be given a chance either of absolving himself or it should be made possible to record a conviction against him. If such a provision was introduced, there would have been good justification to say that it is an instrument for exposing corruption. Now, what is proposed is this. Because the Press has dared to expose certain corruptions, the Press would have to undergo the perils of prosecution, of the harassment, of the expenses of the prosecution. The pressmen would have to take the risk of facing a prosecution which is launched, not by a private individual, but by the State machinery and that way he is supposed to have the chance of exposing corruption.

3 P.M.

What logic is it? What perversion of logic is it? I could have understood the justification of the logic if the Home Minister had even provided that when after such prosecution the person accused is acquitted, or the person accused is not convicted, he would be compensated for all the troubles

[Shri Sadhan Gupta]

and harassment. But that is not provided. To that argument the Home Minister's reply is: what is the difference as regards financial expenses between a private prosecution and a public prosecution? What is the difference as regards harassment between a private prosecution and a public prosecution. Sir, this is a naive question and I hardly feel the necessity to answer it.

The distinction is very clear. The resources of the State are immensely greater; the peril which a man faces when the State comes to prosecute him is immensely greater and the expenses which he has to incur are immensely greater. But what is even worse is that a guilty person if he is to pursue his remedy by himself will shrink away from the courts of law. But when it is the State which is going to prosecute. it is not going to be its concern whether the guilty person shrinks away from the courts of law, because the guilty person need not appear in the court of law at all. The guilty person may be shielded and yet the prosecution can be let loose. This is a proposition which I have repeatedly advanced in the course of these debates and which has been very hotly contested by the Home Minister. He asks how can there be a case without the defamed person appearing as a witness? I have great respect for his eminence as a lawyer. But is it not a well known fact that there is nothing that the defamed person can do, or there is nothing that requires a defamed person to prove in the court as far as the prosecution for defamation is concerned. Sir, it may be an allegation in the Press that a certain Minister has taken a bribe. That allegation is *per se* defamatory. If it is proved that the allegation has been made in the Press against him, that such and such a person, in such and such an article, has made that allegation against the Minister, the whole case of defamation has been proved. Pandit Thakur Das Bhargava has remarked that the person will have to come to court to prove that the allegation is wrong. May I ask: "Why? Where is the necessity to prove that the allegation is wrong?" All you need prove is that the allegation is of such a character that it has lowered him in the estimation of the people. Now, Sir, unless it is contended that our Ministers are such that no allegation of corruption can possibly lower them in the estimation of the people, I fail to understand how it can be contended that the Minister will have to come and say it is wrong. The fact that a case of defamation can easily be proved without the defamed person being made a witness goes contrary to all principles of criminal law; the onus shifts upon the accused to prove that the statement concerned is not within the section and how can he prove it? He has to prove certain exceptions. The exceptions are that he said the truth. Even truth is not an exception, even truth is no justification for defamation. He has to prove that he made it in good faith and in the public interest.

Now, Sir, the best way to prove it is when the person concerned comes and submits himself to cross-examination. But here the person will be withheld and a valuable opportunity will vanish. Sir, it may be stated that in that case no prosecution will succeed. What I wish to emphasise is that what the Government will aim at is not the success of the prosecution, but the ruination, the prospective financial ruin of the person who seeks to expose corruption. That is the danger which is inherent in this provision.

Now, Sir, why should we have such a provision? I have demonstrated that the argument that it is necessary for the purpose of exposing corruption is absolutely without any foundation; it will hold no water at all. Then, why is this introduced. The real reason is that it is necessary to shield corruption; or, if it is not possible to shield corruption, it is at least necessary indiscriminately to penalise exposure of corruption by dangling risks of harassment before the Press and public spirited people who venture to criticise public functionaries.

Now, Sir, this is a great danger to the freedom of the Press. No person who has any love for democracy can look on this kind of a provision with equanimity. The Press has done a very great service to us. It has happened that many of the scandals for which the Government was responsible, jeep scandals, fertiliser scandal, and many other scandals, have been exposed by the Press. It is but right that it should be so. In a democracy every failure of the Government, and particularly failures of the worst type, nepotism and corruption in the Government, must be exposed ruthlessly. Now it is being sought to check this exposure; it is being sought to penalise this exposure, not by justice, but by the travesty of justice, not by a fair trial before a court of law, but by devious means, by which the accused will be denied a fair trial. Now, Sir, what will happen? The Press will be terrorised; the Press will be terrorised because of the special position given to the officials. The pressmen have repeatedly stated, they have stated in their memorandum before the Select Committee, and they have also left no doubt in their statements, that provisions like this contain an element of terror, because whereas now it is only individuals they have to deal with, after this provision comes into being, they will be conscious that the State will be after them whenever they do something which in the eye of the State should not have been done.

[Shri Barman *in the Chair*]

That is a great check on the freedom of the Press. I do not know whether similar provisions can be thought of in a democratic set-up and whether similar provisions exist anywhere. I would go further and say that in the conditions of this country where corruption and nepotism are rampant, what is needed is not to check their exposure but to encourage their exposure.

There was an argument that the Press Commission has supported these provisions. That was the Home Minister's trump card. That was his ace of trumps. What is the worth of this argument? Everyone knows that the representatives of the working journalists in the Press Commission admittedly opposed this provision. The Press Commission consisted of many kinds of persons including the representatives of working journalists. It is really the working journalists who have to face the greatest peril when this kind of provision comes into being. It is these very representatives who have opposed any such provision and it is their opinion that is entitled to carry greater respect than the opinions of anyone else who have nothing to do, nothing to suffer from a misapplication of these provisions. Therefore, the fact that the working journalists have opposed it unanimously is a sufficient condemnation of these provisions.

Now, Sir, for the Communist Party I can say that our attitude is an entire opposition to this clause, clause 97 and to clause 114 which is an incidental clause. We hold that in the matter of defamation no distinction should be drawn between citizen and citizen. We hold that in the matter of examination in Courts no distinction can exist between citizen and citizen in the matter of facing justice and in the matter of testing his evidence in cross-examination in the witness box. So, we hold these principles self-evident and therefore, we oppose the entire group of clauses. But, we know that we will not, perhaps, carry our opinions in this House. Therefore, we have proposed certain amendments.

The principles behind these amendments are: firstly, to restrict the mischief of the operation of the provisions as far as possible. Therefore, in amendment number 431 we have proposed to limit the special privilege of

[Shri Sudhan Gupta]

sneaking away from the light of exposure only to the President. If anyone has to be allowed to sneak away from exposure of evil deeds, let it be confined to the President, because we cannot do anything better by way of amendment. Let not the Vice-President, Governor or Rajpramukh be allowed to sneak away. The same principle has been followed in regard to witnesses and by amendment number 495 we have confined the restriction of the privilege of avoiding justice and of facing the truth like the common people only to the President. We have sought to deny this right to the Vice-President, Governor or Rajpramukh.

The second principle we have followed is the provision of maximum safeguard against harassment. Our amendment number 434 provides that the complaint must be made, not by the Public Prosecutor against whom Acharya Kripalani said very bitter things, but we have provided that if any such complaint has to be lodged by an authority other than the individual defamed, let it be lodged by the Attorney-General in the case of the Union and by the Advocate-General in the case of the States. It should not be lodged by the Public Prosecutor. Again, if any such undue step has to be taken, let the Council of Ministers take full responsibility for letting loose this tyranny. Therefore, we have also provided that the complaint must be lodged with the previous consent of the Council of Ministers. Amendment number 438 which we have proposed carries forward this safeguard against harassment because we have provided that if the defamed person does not submit to cross-examination, if the accused has not the opportunity of cross-examining him, the Sessions Judge will forthwith acquit him.

Then, Sir, to carry this very principle still further, we have provided that where the prosecution does not end in conviction, the accused person will be given a compensation commensurate with the expenses, trouble and harassment which he has had to suffer and it will not be below Rs. 1,000. I submit that, apart from the expenses incurred, Rs. 1,000 is only a very fair estimate of the trouble that a person has to undergo if ruthlessly prosecuted for exposing corruption.

The third principle we have followed in our amendments is that there should be as much *bona fides* as possible in these prosecutions. Therefore, our amendment number 437 provides that the prosecution must start within seven days of the defamation. The defamation must be so grossly libellous as to at once attract the attention and if it is not of that nature that it at once attracts the attention of the Government, then let the individuals pursue their own remedies.

Before I end, I must say that the Government are embarking on the most dangerous device, the device of thought control. With whatever sweet words they choose to hide their ugly designs, all their ignoring of realities, all their perverted logic will not make the slightest difference to the reality which is that they like nocturnal birds corruptly groping for their prey want to secure the darkest possible atmosphere for their transactions. There can be no doubt that the object is that public servants or Ministers may indulge in all sorts of shady transactions, but if any public spirited individual or journalist dares to expose the dark deeds and throw the intolerable light of truth on them, the machinery of the whole State will stand behind these corrupt individuals, so that the very thought of this peril may strike terror into all public spirit and leave every corrupt man—particularly corrupt men in the topmost storeys of the administrative hierarchy—free to indulge in their nefarious activities. The object is that the scandals—the jeep scandal, the fertiliser scandal and such other scandals—shall no longer be allowed to see the light of the day except at the peril of facing financial ruin. Sir, this is only the beginning of

Fascism. If this is allowed to go unchallenged, worse and more naked attacks on our liberty will follow. Therefore, even if in this House packed by a majority, which had received only a minority of people's votes, if in this House we cannot stop the passage of the Bill, I am sure the people of the country through their protest and vigilance will see to it that the Government are even more terrified to use these obnoxious provisions than they are terrified of exposure of their evil deeds. If, however, inspite of the opposition of the people they continue to use such power, let them remember the names of Hitler, Mussolini and Chiang-kai-Shek and read their fate.

Mr. Chairman: I have to announce that the amendment tabled by Shri Pataskar to clause 22 has been cyclostyled and is now available in the Notice Office. Any Member who wants it can have a copy from there.

Shri Mulchand Dube: I have tabled two amendments in regard to clause 25. I have since considered the matter and I think the amendments in the Bill do not affect the matter very seriously. For instance, under the law as it stands at present, only the person who is defamed has got the right to file a complaint; by this amendment it is sought to enable another person to file the complaint. That would only be in accordance with the general criminal law. So far as filing of the complaint is concerned, I do not think that it is a very serious matter which should be taken serious notice of, but when I say this, I do think that when we are protecting the public servants, we should also take some steps to protect the public. Assuming that there is a corrupt public officer or servant who has a reputation for being corrupt and that everybody knows that he is corrupt, then what is the remedy against it? Supposing a person, in good faith, thinking that it will be for the public good, makes a complaint to the higher officer, the result will be that he will be publishing a libel and would be guilty under section 499 or section 500 of the Indian Penal Code. Therefore, are we going to give protection to the public where they honestly and in good faith make the complaint? The man who is prosecuted will be acquitted, but that is a different matter. The point is why should he be made to face a prosecution in which he will be ultimately acquitted? Why should not Government institute an enquiry by a responsible officer in order to determine whether the complaint that is made against that particular officer is or is not correct? If the Government comes to the conclusion that it is correct, then there should be no prosecution so far as that man is concerned. The prosecution, if at all, should be of that public officer. Therefore, my submission is that before taking any action, Government should, as a matter of law, which should be provided in the Bill itself have an enquiry made against that public servant on a complaint being received against him, and if it is found eventually that the complaint was without any foundation whatsoever, it is only then that action should be taken against that person.

There is another difficulty that seems to crop up in the way of the Government. For instance, the provision here is that the Secretary will authorise the Public Prosecutor to file a complaint. How is the Public Prosecutor going to get witnesses? How will he proceed to prove that the man was actually defamed? Therefore, investigation in a matter like this is absolutely necessary. We never hear of a public prosecution or a complaint made by Government being filed without making a proper investigation either by the police or the C.I.D. There is some staff or department that makes an enquiry or investigation and it is only after that investigation is made, that with all the evidence available a prosecution is launched. There is no such provision in clause 25, and if that provision is not there, there will be further difficulties. Here the complaint would go to the Sessions Judge. If it goes to the Magistrate, he will hold a preliminary enquiry, but the Sessions Judge is not

[Shri Mulchand Dube]

entitled to make a preliminary enquiry and he has to proceed straightaway as soon as the complaint is filed. Any protection that is available to a government servant must also be given to a member of the public who is acting in good faith and honestly. My submission, therefore, is that the hon. Home Minister will please consider this matter and provide something by way of investigation or by way of inquiry before any action is taken against a man who complaints against a public servant or makes a statement which may be in the nature of a defamatory statement.

Dr. Jaisoorya (Medak): I am only interested in clause 25 because I happen to be a journalist myself, though an unpaid journalist, for thirty years. I believe the duty of the journalist is to uphold the principles which are mentioned in chapter VI of the Five Year Plan on page 115. "The principal objectives to be achieved in public administration are integrity, efficiency, economy and public co-operation". Again further down on the same page it says—

> "The influence of corruption is insidious. It not only inflicts wrongs which are difficult to redress, but it undermines the structure of administration and the confidence of the public in the administration. There must, therefore, be a continuous war against every species of corruption within the administration as well as in public life generally and the methods to root out this evil should be constantly reviewed."

I want to ask you one frank question. What else is majority of the journalists, the public Press, doing but attempting to fulfil this? Of course, you remember that in the grand old days when the late lamented Britishers were here, we had a thing called "The Defence of the Princes Act".

An Hon. Member: Now amended.

Dr. Jaisoorya: That has gone and now this is "The Defence of the Corrupt Bureaucrats Act". What is it that we are trying to do? You say it is defamation. Now, there is a difference. There is some peculiar British idea that there is a tremendous difference between 'slander' and 'defamation'. If I get up on a public platform and say the same thing, ten times worse, the punishment is far less than if I put it in print. It is called 'defamation' if you put it in print, and it is called 'slander' if you shout from the house-top or on the radio. What I want to know is this. According to Henry Clay, any body who holds a public office, his behaviour and his action become public property and therefore he is subject to criticism and examination of his action. What are you trying to do? We are trying to make an invidious distinction between the so-called 'responsible Press' and the 'Yellow Press'. The difference is this. The so-called responsible Press sometimes is very very chary. It weighs everything and then hints. The so-called Yellow Press is a little more foolhardy. If the Yellow Press is not convinced that it has material, the moment you try to bring a case against it, or give it notice, it brings in an apology if it does not have full facts and the courageous journalists. For instance, may I remind Mr. Datar of the Nariman-Harvey case? I believe it is not so very old. It transpired that the Government of Bombay brought a case against Nariman and it was shown by the brave action of Nariman what conditions were there and what a corruption it was.

Shri S. S. More: It was not a case brought by Government, but by Mr. Harvey in his personal capacity.

Dr. Jaisoorya: Why do you make this invidious distinction? After all, if an official is always convinced of his innocence, there is the same old law which is just as good. Supposing poor Jaisoorya.... .

An Hon. Member: Why so poor?

Dr. Jaisoorya: Supposing poor Jaisoorya should defame Dr. Katju anywhere out—it may be in a little village—then he can file a suit against me anywhere, because he has the power; but take the opposite position—if Dr. Katju should say anything against poor Jaisoorya—say in Timbuctoo, Delhi or Lucknow. Jaisoorya will have to go to Timbuctoo, Delhi or Lucknow to contest the case. Why this difference? The Government is not the State. The government is only an instrument. Governments come and go while the State remains. Therefore, to say that anything against an official or against a Minister is something against the state is absolutely wrong.

Now, the third point. Let us take for granted the constitutional positions of say, the Governors, the President, and the Vice-President. They act indirectly under the advice of the Ministers—the Governors I mean—unless, of course, the Governors act on their own; some do, quite often, open their mouths off their own bat.

An Hon. Member: For instance?

Dr. Jaisoorya: That is quite a different matter. But Ministers, bureaucrats, officials—are instruments of executive action. They are instruments of executive action, and therefore, if you say the Government represents not the state but the people, that they derive their actions and powers from the people, that they are liable to be open to the criticism of the people, then, what happens? You say, we will have to gain the confidence of the people. You have had an Anti-Corruption Enquiry Committee. Hyderabad is said to a Part B State. The States Ministry should be cognizant of the recent report of the Anti-Corruption Enquiry Committee. What action has been taken? Zero. There are charges against another set of Ministers in another State. They are in black and white and are published in the newspapers. Words have not been minced there. What action have you taken? Zero. How do you expect the people to understand these things? After all, out of 39 crores of people, .001 are lawyers and understand the law. But the common people must be made to feel that your laws are for their benefit and welfare. They do not understand the intricate legal points that you and I discuss here, not a bit of it. I am concerned with the effect of law upon the people, how they appreciate, how they understand, how they begin to feel that the law is there to protect them and give them certain rights. I was a journalist. You may contest my *bona fides*. Every honest journalist is prepared to stand by what he says. There are certain codes of ethics for a journalist. He is not bound—and he should not be forced—to disclose the source of his information. I have several sources of information. I never disclose them because I have to follow the ethics of journalism. I take the responsibility upon myself. Very well. After all, when certain allegations are made against any bureaucrat or any official, certainly you are not keeping quiet but you make a departmental enquiry. It is only after you are convinced by the departmental enquiry that there is nothing in that case, that the matter is left out. But you are making it obligatory on the part of a Third Class Magistrate or somebody to judge the sincerity of my purpose, the standard of my knowledge, the standard of my rectitude. I think it is wrong. How are you coming into contact with the people but through the Press? Are you considering the Press as champions of the people or, are you considering the Press as stooges of some powerful group or the other? Of course, there may be a handful of those who are not so good, but to indict the entire Press, and the pressmen, who, as it stands, have a very hard time, is not right. They are torn between the tug of the heart-strings and the purse-strings and it must be said to the credit of the working journalists now that their heart-strings win over their purse-strings. To make this invidious distinction between white press and yellow press is wrong.

[Dr. Jaisoorya]

Dr. Katju talks about himself as a great lawyer and as a great authority. I deem him here as an artist, who is trying to renovate a hundred-year old picture. What is he trying to do? Section 162, he is trying to wipe off the picture, without anybody knowing it. That is not renovation. It is alteration of the picture. I want to tell the great artist Dr. Katju one thing. "To live long in the people's minds, a work of art must express the great truth of life—the truth—not a petty truthlet. That truth requires of the artist not mere warmth, but glowing fervour, not comfortable complacency, but audacity, creative searchings, not mere annoyance, but positive anger, not acquiescent sympathy but active, vigorous love for what we are fighting to win, and it is beyond the reach of men of petty mind and timid heart, men devoid of great positive ideals". This is how I have felt after hearing all the little twistings and turnings of his. What he ought to have done was to modify this hundred-year old picture in the light of present-day facts. It is an extraordinary assumption that every policeman is a paragon of all virtues, that his heart is virginal, that he is incorruptible, that he cannot tell a lie. This is an ideal which by any means nobody can reach. In his "Reminiscences and Experiences", the author, by the name Dr. Kailash Nath Katju, has written that it is terrible that in India there are so much of perjury and false cases. He may refer every policeman and also himself to his own writings. Then, to give such powers. . . .

An Hon. Member: What powers?

Dr. Jaisoorya: It is in the possibility of falsification the diary. I am not a policeman, but I have seen hundreds of cases where people are made to sign under compulsion. Only four days ago, there was a case, and I have drawn the attention of the Home Minister to two men being beaten black and blue and where third degree methods were used. That is what happening.

Shri N. S. Jain: It has not got anything to do with this clause.

Shri N. C. Chatterjee: It is not yet published in the press.

Dr. Jaisoorya: It is not yet published, but I have drawn your attention to this. That is enough.

What we have got to do is: we have got to convince the people that here we are giving every safeguard. But the most intelligent section, namely, the pressmen, have no faith in all the grand words you are talking about, because they know that the Damocles' sword is coming down on them, lower and lower over their heads. In spite of it, I tell you—I am a journalist—we will defy you, we will speak the truth, and take the consequences.

Mr. Chairman: The following amendments may now be moved by hon. Members: Amendment Nos. 290, 431, 220, 265, 432, 470, 471, 472, 382, 266, 434, 384, 435, 221, 267, 473, 385, 223, 475, 438 and 501 to clause 25, and also 538, 539 and 540 to clause 25, by Shri Venkataraman which will be circulated.

Then, to clause 97, amendment Nos. 493, 494, 495, 496.

Then, to clause 114, amendment Nos. 497, 498, 499, 337 and 273.

Clause 25

Shri R. D. Misra: I beg to move:

In page 7, *for* lines 8 to 49, *substitute*:

"198B. *Prosecution for defamation against public servants in respect of their conduct in the discharge of public functions.*—(1) Notwithstanding anything contained in section 198 of this Code, where—

(a) any newspaper, or book as defined in the Press and Registration of Books Act, 1867 (XXV of 1867) or

(b) any document,

whenever printed appears to the Central Government or to the

State Government to contain any defamatory matter which harms or is intended to harm the reputation of the President, Vice-President, Governor or Rajpramukh or any Government servant employed in connection with the affairs of the Union or of a State, member of Parliament, member of State Legislature, member of any local authority, public servants employed in connection with the affairs of any local authority, that is to say, any matter the publication of which is punishable under section 500 of the Indian Penal Code (Act XLV of 1860), the Central Government or the State Government may by notification in the Official Gazette stating the grounds of its opinion declare every copy of the issue of the newspaper containing such matter and every copy of such book or other document to be forfeited to Government and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) For the purposes of sub-section (1), document includes also painting, drawing or photograph or other visible representation.

(3) Any person having any interest in any newspaper, book or other document or who is liable to be prosecuted for defamation under section 500 of the Indian Penal Code (Act XLV of 1860) for the publication of the same in respect of which an order of forfeiture has been made, may within two months from the date of such order apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made did not contain any defamatory matter or that the imputation is true concerning such person and it has been published for the public good in order that the person concerned be dealt with according to law of the land. If the High Court is satisfied that the matter in dispute does not contain defamatory matter it may set aside the order of forfeiture or direct a Sessions Judge subordinate to it to inquire into the truth or falsehood of the allegations and after receipt of the report of the enquiry may set aside the order of forfeiture.

If the order of forfeiture is not set aside or if the person or persons responsible for the publication do not apply within two months of the order of forfeiture, the Central Government or State Government may sanction the prosecution of the offender."

Shri Sadhan Gupta: I beg to move:

In page 7, lines 13 to 15, *omit* "or the Vice-President, or the Governor or Rajpramukh of a State, or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State."

Shri Tek Chand (Ambala-Simla): I beg to move:

In page 7, lines 14 and 15, *omit* "or a **Minister**, or any other public servant employed in connection with the affairs of the Union or of a State".

Shri Mulchand Dube: I beg to move:

In page 7, lines 14 and 15, *omit* "or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State".

Shri N. Somana: I beg to move:

In page 7, lines 14 and 15, *omit* "or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State".

Shri Amjad Ali: I beg to move:

In page 7, lines 14 and 15, *omit* "or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State".

Shri V. G. Deshpande (Guna): I beg to move:

(i) In page 7, line 14, *omit* "or a Minister".

(ii) In page 7, line 14, *after* "or a Minister" *insert* "or a Deputy Minister or a Minister of State, or a Parliamentary Secretary or a Speaker or a Deputy Speaker of the State Assembly or the House of the People or the Vice-Chairman of the Council of States, or Chief Whips or Deputy Chief Whips of the party in power in any legislature, or office-bearers of local bodies or Vice-Chancellor or Treasurer of a University".

Pandit K. C. Sharma: I beg to move:

In page 7, lines 14 and 15, *omit* "or any other public servant employed in connection with the affairs of the Union or of a State".

Shri M. L. Agrawal (Pilibhit Distt. *cum* Bareilly Distt.—East): I beg to move:

In page 7, lines 14 and 15, *omit* "or any other public servant employed in connection with the affairs".

Shri Sadhan Gupta: I beg to move:

In page 7, line 19, *for* "Public Prosecutor" *substitute* "Attorney-General of India or the Advocate-General of a State as the case may be".

Shri U. S. Dube (Basti Distt.—North): I beg to move:

In page 7, *after* line 19, *insert*: "(1A) The person against whom such offence has been committed shall be a necessary witness for the prosecution".

Shri Sadhan Gupta: I beg to move:

In page 7, *for* lines 24 to 35, *substitute*:

> "(3) No complaint under sub-section (1) shall be made by the Attorney-General of India or the Advocate-General of a State except with the previous sanction of the Council of Ministers of the Union or of the State as the case may be."

Shri Tek Chand: I beg to move:

In page 7,—

(i) line 26, *omit* "(a)"; and

(ii) *omit* lines 29 to 35.

Shri Mulchand Dube: I beg to move:

In page 7, *omit* lines 29 to 35.

Shri Amjad Ali: I beg to move:

In page 7,—

(i) line 26, *omit* "(a)"; and

(ii) *omit* lines 29 to 35.

Shri H. G. Vaishnav (Ambad): I beg to move:

In page 7, *omit* lines 33 to 35.

Shri Tek Chand: I beg to move:

In page 7, line 37, *for* "six" *substitute* "three".

Shri Amjad Ali: I beg to move:

in page 7, line 44, *add* at the end "as provided for cases instituted otherwise than on police report under clause (b) of section 251".

Shri Sadhan Gupta: I beg to move:

In page 7, *after* line 44, *add*:

> "Provided that if the accused has not had an opportunity to cross-examine the person defamed, the Sessions Judge shall forthwith acquit the accused.
>
> (5A) When any case of which the Court of Session takes cognizance under sub-section (1) does not result in conviction of the accused, or where a conviction in any such case is set aside by a

superior Court, the Court of Session or the superior Court, as the case may be, shall award to the accused such compensation, not below one thousand rupees, as such Court may deem just and adequate in view of the expenses and particularly the harassment and trouble suffered by the accused."

Shri R. D. Misra: I beg to move:

In page 7, *after* line 49, *add*:

> "Provided further that notwithstanding anything contained in section 198, no Court shall refuse to take cognizance of an offence falling under Chapter XXI of the Indian Penal Code (Act XLV of 1860) if the person filing a complaint produces a written authority, verified before a Magistrate or a Gazetted Officer, containing a statement to the effect that the aggrieved person has been informed of the allegations on which the complaint is formed and that he has authorised such person to file a complaint in a competent Criminal Court on his behalf."

Shri Venkataraman (Tanjore): I beg to move:

(i) In page 7, *for* line 35, *substitute* "Government concerned".

(ii) In page 7, line 44, *for* "of warrant cases by Magistrate" *substitute* "by Magistrates of warrant cases instituted otherwise than on a police report and the person against whom the offence is alleged to have been committed shall, unless the Court of Session otherwise directs, be examined as a witness for the prosecution".

(iii) In page 7, *after* line 44, *insert*:

> "(5A) If in any case instituted under this section, the Court of Session by which the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Court of Session may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor or Rajpramukh of a State) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.
>
> (5B) The Court of Session shall record and consider any cause which may be shown by the person so directed and if it is satisfied that the accusation was false and either frivolous or vexatious, it may, for reasons to be recorded, direct that compensation to such amount, not exceeding one thousand rupees, as it may determine be paid by such person to the accused or to each or any of them.
>
> (5C) All compensation awarded under sub-section (5B) may be recovered as if it were a fine.
>
> (5D) No person who has been directed to pay compensation under sub-section (5B) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:
>
> Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter."

Clause 97

Shri V. P. Nayar: I beg to move:

(i) In page 27, line 12, *for* "any Magistrate" *substitute* "any District Magistrate, Presidency Magistrate or Sub-Divisional Magistrate".

(ii) In page 27, *omit* lines 14 to 19.

(iii) In page 27, lines 17 and 18, *omit* "or the Vice-President or the Governor or Rajpramukh of a State"

[Shri V. P. Nayar]

(iv) In page 27, *for* line 20, *substitute*:

'(c) in sub-section (2), *for* the words "or Presidency Magistrate" the words "Presidency Magistrate or Sub-Divisional Magistrate" shall be substituted.'

Clause 114

Shri Amjad Ali: I beg to move:

(i) In page 31, lines 10 to 14, *omit* "or a Minister or any other public servant employed in connection with the affairs of the Union or of a State".

(ii) In page 31, lines 27 to 31, *omit* "or a Minister or any other public servant employed in connection with the affairs of the Union or of a State".

(iii) In page 32, lines 15 to 19, *omit* "or a Minister or any other public servant employed in connection with the affairs of the Union or of a State".

Shri R. D. Misra: I beg to move:

(1) In page 33,—

(i) line 1, *after* "sections" *insert*:

"121, 122, 123, 124, 125, 126, 127, 128, 129, 130"; and

(ii) line 2, *after* "165" *insert*:

"166, 167, 168, 169, 312, 313, 314, 315, 316, 384, 385, 386, 387, 388, 389, 417, 418, 493 and 498."

(2) In page 33, *after* line 19, *add*:

'(e) in column 4 in the entries relating to section in which the punishment of imprisonment does not exceed three years the words "summons", otherwise "warrant" shall be substituted for the existing entries.

(f) in column 5 in the entries relating to offences punishable with imprisonment not exceeding three years the words "Bailable" otherwise "Non-bailable" shall be substituted for the existing entries.

(g) in column 8 in the entries relating to offences the following entries shall be substituted for the existing entries:—

(a) if the punishment does not exceed three months "any Magistrate".

(b) if the punishment exceeds three months but does not exceed one year—"Magistrate of first or second class".

(c) if the punishment exceeds one year but does not exceed three years—"Magistrate of the first class".

(d) if the punishment exceeds three years but does not exceed seven years—"Magistrate of the first class specially empowered under section 30 of the Code".

(e) if the punishment exceeds seven years but does not exceed ten years—Court of Assistant Sessions Judge.

(f) if the punishment exceeds ten years—"Court of Sessions Judge or Additional Sessions Judge".'

Mr. Chairman: The above amendments are now before the House.

Shri Bogawat (Ahmednagar South): This House is considering a very important legislation. We want to reform our judicial system. But, clause 25 is the worst type of clause that I can see in this Bill, so far as public servants are concerned. I can see, the President or Vice-President or a Rajpramukh or a Governor may be privileged persons. There may be some protection to such personalities. I would also go a step further and say that the Ministers who are elected people, who are the rivals of the opposite parties and against whom the opposition parties may always like to find some fault or other or may have some allegation or other, may also be given the privilege and these persons may be protected if there is any defamation against them. I do not understand the wording of clause 25 so far as public servants are concerned as it is put in here. I have given amendment to drop the words "or any other public servant employed in connection with the affairs of the Union or of a State, in respect of his conduct in the discharge of his public functions". I do not understand the necessity for this.

We know what is going on since 1942. In every department, I can say, without exception,—there may be very few good persons —that corruption is rampant in the country. As far as my own experience goes, I was practising in the Income-tax department, and after 1942, I left going to that department. Only recently in 1952, I put in a number of cases before the Minister. An Income-tax officer was suspended and subsequently dismissed. So also, I have experience of the Sales Tax department. It is an open secret that without exception, these public servants in that department are corrupt. Not only that. You go to the Irrigation department or even the Commerce department. I had an opportunity to go to the Commerce department and the question was, what was the business. It is so even in the case of the Defence department. These things are going on with open eyes. What has been done by the Government? I do not know how the Government is going to come to the help of the public servants. Why should you not allow the public servants to go to the court and if they are defamed, let them prosecute the persons who defame them. Why should the Public Prosecutor go to the help of the public servants? Why should the Government spend for these public servants? Why should the public servants be helped in this way and all the other people gagged? Why should the Press be gagged? Why should the public workers be gagged. I do not understand the importance of these public servants in this clause.

I had an opportunity to catch one Excise Inspector. He was convicted for six months and fined Rs. 1,000. There are so many public workers who want to bring to the notice of the Government all these matters of corruption. They should be protected. Confidential information should be sought from the public workers so that these public servants could be brought to book. Instead of doing that, there is protection given to the public servants and government machinery is to be utilised in favour of the public servants. I do not understand why.

There may be an argument that if there is any defamation against a public servant, that man should be asked and if he denies, there should be a prosecution. Then, it is the duty of the person who has been defamed to prosecute. When the Government is the prosecutor and when the public servant is the complainant, and the man who defamed wants to bring to the notice of the public and the Government real facts, witnesses may not come forward. I have got an experience of this. I have known several merchants who have told me that they had to give bribes; but they were not ready to come forward and say so.

Sardar A. S. Saigal (Bilaspur): That is their weakness. (*Interruptions*).

Shri Bogawat: But, they have to make business.

Some Hon. Members: No, no.

Shri Bogawat: They have to save their skin and they have to save their money. They are taxed hundreds of thousands of rupees. If they give a bribe of Rs. 400 or 500, they can save Rs. 2,000 or Rs. 3,000. Therefore, don't say that it is their weakness. They are business people and it is natural that they would do their business.

Shri Kanavade Patil (Ahmednagar North): It is they who are corrupt. (*Interruptions*).

Shri Bogawat: There should not be interruptions, Sir. My hon. friends will please keep silent.

Mr. Chairman: Order, order. Let the speaker develop his own arguments.

Shri Bogawat: I agree with my hon. friend that the business people are the persons responsible for giving bribes. I know that. But, this has been going for long now. We know what happened in China. China toppled down. What is the reason for China toppling down during the days of Chiang-Kai-Shek?

Some Hon. Members: Corruption.

Shri Bogawat: This type of corruption was rampant in China. That is happening in India now.

Some Hon. Members: No, no.

Shri Bogawat: If that is not to happen, there should be some check.

We must frame some other law. I may put it to the House that there was the Anti-Corruption Act of 1947. There were some provisions in that Act,—section 5—as regards the misconduct of public servants. That Act is not now in force. I am of opinion that not only should this Prevention of Corruption Act come into existence, but there should be some further provisions added to the Act. There should be a clause that if any public worker at the district level, whether a Member of a Panchayat Board, or a Local Board or a Municipality or a Member of a Legislative Assembly gives information, they should be protected. There should be an enquiry into the conduct of the public servant, and if the man is corrupt, he should be prosecuted. My hon. friend said that this is a bureaucratic Act. Why should it not be said like that? What is the reason for the Government to come to the help of the public servant? Why should people come and say that this public servant is corrupt? There is no election here; there is no rivalry; there is no animosity. If there is no animosity, if a person makes some charges *bona fide*, it is the duty of the Government to make enquiries. I find that the Intelligence department is also not properly working. Even in that department some officers are corrupt and they are not taking proper care and are not bringing to book public servants against whom there is some allegation regarding corruption. These things are going on in every department starting from the lowest man to the Secretary. In the Railways, these things are going on. I do not know why this extraordinary measure is sought to be taken to support the public servants. I would request the House to consider this clause very carefully and throw it out so far the saving of the public servants is concerned. If that is not done, the result would be, there would be more corruption in the country. People would not be prepared to come forward and give information because there would be the fear of their prosecution, and there would be the fear that they may not be supported by the persons who actually informed them. The people will be afraid and will not come to help the Government; they will say, let the public servants go to dogs, let him take bribes. In the whole country there will be chaos. Corruption and bribery will go on increasing and increasing.

Shri S. S. More: Like the membership of the Congress.

Shri Bogawat: In order that the Congress which is has done good work and saved the country and which is striving every nerve for the benefit of the country should not be defamed or condemned, it is the duty of the Government to see that such a clause is not put in this Bill giving help to the public servants. Let the public servant go to the Court and let him stand in the witness-box, and prove his *bona fide* to show that he is quite clean, and that he is not corrupt. Besides this, I would even suggest to the hon. Home Minister that the Prevention of Corruption Act, 1947, should be further revised, so that a few more sections could be put in there in this regard. As you know, there is already a big chapter in regard to defamation, namely Chapter XXI, which is being given effect to. And if the public servants are to be helped in this way, then there would be no justice at all; there would be no stop to corruption, and the public servants will feel that they are quite safe. If any person comes and defames a public servant, he will simply go to the secretary, and say, oh, it is all false; and the complainant will be prosecuted; thus, there will be harassment to the person giving the information. Under these circumstances, I humbly request the hon. Home Minister, and the Deputy Home Minister to see that this clause is deleted, and my amendment is accepted in its place.

Mr. Chairman: Now, Shri U. C. Patnaik.

Shri Achuthan (Crangannur): Members who have not spoken may be called.

Sardar A. S. Saigal: On a point of order. This particular provision, is being put before the House for the first time. When the motion for reference to the Joint Select Committee was discussed here, we could not get any time to speak on this. Now, the Bill has emerged from the Select Committee, and we want to speak on this clause. It is a very important clause, and I would request that enough time may be given to us, so that we may express our views on it.

Mr. Chairman: This is no point of order at all. It is only a submission. May I say to that in reply, that, after all, only a few Members have been in the Select Committee, while there are more than 450 Members who have not been there? Since the time is also limited by the Business Advisory Committee, I have to make some selection amongst those who are very eager to speak, and I am trying to give chance to as many Members as possible.

Sardar A. S. Saigal: May I submit that those Members who were in the Select Committee have already expressed their views there?

Mr. Chairman: Shri U. C. Patnaik, were you a Member of the Select Committee?

Shri U. C. Patnaik (Ghumsur): I have not got my chance at all till now. I am thankful to you for having given me a chance now.

Mr. Chairman: Were you a Member of the Select Committee?

Shri U. C. Patnaik: I was not in the Select Committee.

Sardar A. S. Saigal: We are sailing in the same boat.

Shri U. C. Patnaik: The existing procedure relating to defamation is that there must be a complaint by the person aggrieved for such an offence. There is a proviso to it, which mentions an exception, and it reads as follows:—

> "Provided that where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years......some other person may, with leave of the Court, make a complaint on his or her behalf."

In the Schedule it is provided that such persons shall not be arrested without warrant, and that the venue is the Court of Sessions, the Court of a Presidency Magistrate or of a Magistrate of the First Class.

The amendment that was proposed by the hon. Home Minister sought to make defamation of a public servant a cognizable case, so that any police officer could arrest, without warrant, anybody committing an offence in relation to this class of exempted persons, namely the President, the Governors, Rajpramukhs, Ministers and other public servants. We are grateful, no doubt, to the Joint Select Committee, because they have refused to make it a cognizable offence. But at the same time, they have suggested the insertion of a new section 198B.

[Shri U. C. Patnaik]

which seeks to bring the said classes of persons (defamation against whom was sought to be made a cognizable offence) into the same category as the exempted class of persons, namely women or minors. In the case of the latter, somebody else is allowed to file a complaint; the same effect is to be given in the case of these persons also, by the introduction of the new section 198B.

There are certain special features in this new section. In the case of the President, the Vice-President, the Governor or the Rajpramukh of a State, a Secretary to Government can give the sanction; and in the case of Ministers, any Secretary to the Council of Ministers could accord necessarily previous sanction, while in the case of any other officer or public servant, from the highest officer to the lowest a *chowkidar* or any other class IV servant, the sanction is to be given by any officer who is competent to remove him from office. After getting that previous sanction, the Public Prosecutor is to make a complaint to the Court of Sessions within six months from the date when the offence was committed. This new right is to be in addition to the normal rights available to the officer concerned, namely, a civil action or under criminal law as in section 500 of the Indian Penal Code. This will mean that an additional facility is given to these persons, namely the President, the Governor, the Rajpramukh, the Ministers, and other public servants, that they themselves need not file a complaint. The complaint can be filed on their behalf by somebody else.

I would, however, like to draw a distinction in the case of the President, the Rajpramukh or the Governor of a State, because they represent the State or the country itself; and in virtue of their office and their position, they need not make a complaint themselves. This is not the only reason. There is one other reason which may justify a separate classification being made for them, namely that they have very little of official work to do in the day to day administration. They constitute more or less the hospitality organisation of the country or of the State, and for all practical purposes, they have nothing to do with the routine administration of the country or the State. On the other hand, the Ministers at the Centre and in the States, and other public servants from top to bottom,—from the seniormost I.C.S. officers to the *chaprasi* or *chowkidar*—have intimate concern with the administration, and if they are to be given this privilege, and put into a privileged class, it is rather something which goes against the canons of justice, because in their official duties they might have been associated with acts which call for public criticism.

It has been found during the last few years, since the achievement of Independence, that the moral of public servants has in very many cases, deteriorated. May I draw your attention in this connection to the two sets of Parliamentary Reports, namely the Reports of the Public Accounts Committee and of the Estimates Committee, which go to show that corruption has become rampant not merely in the lower services, but even at the highest levels? You might have seen from many of these Reports that not merely thousands, or lakhs, but crores of rupees have gone down the gutter; and those very officers who are responsible for having committed these offences of fraud and other things against the state and against the public coffers are getting promotion.

In this connection, I would like to draw your attention to a recent Report of the Public Accounts Committee,......

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): They are given titles also.

Shri U. C. Patnaik: ...which shows that in the purchase of crores and crores of rupees worth of war materials, our officers have played ducks and drakes with our country's finances. For a particular weapon of which 2 lakh items were needed for our country's defence, the quotation was £6 per each weapon. But overnight, a junior officer was called from U.K. to Delhi, and the figures were brought up to £8 per each item, so that there was a gain of £2 per item made in Delhi by certain officers.

4 P.M.

That is in the Nineth report of the Public Accounts Committee. That is, overnight £4,00,000 were lost to the Government of India's offers by certain officers and those officers are now getting promoted. This shows that there are no safeguards to prevent corruption in this country but facilities to propagate corruption, to promote nepotism and maladministration. That is the position. It is not merely that our defence requirements are known to outsiders; unknown companies with a capital of £100 are coming in as middlemen and we are losing lakhs of pounds (sterling) overnight here in Delhi.

The Home Ministry says that every officer has to disclose his properties. And what are the properties that he is called upon to disclose? It is simply his immoveable properties, not his bank balances, not the cash, and other properties that he has in his possession or in the names of his near relations. It is only the immoveable properties that he has to disclose. And what does the Home Ministry do with that? Each of these disclosures goes into the secret, confidential records of the department concerned. It does not see the light of day, with the result that no one gets access to these so-called property—Statements of officials even with regard to their immoveable properties. Thus the so-called property statement is a nominal thing; it is an innocuous act. There is also the other difficulty. We have enacted the Anti-Corruption Act of 1947. Certain presumptions can be drawn from the possession of properties beyond the normal sources of income, but then there is no provision for the confiscation of the properties which gave rise to the presumption. In every act of government you find that there is a premium on corruption and little wonder that corruption has gone on increasing. Every step that Government has taken to check corruption has some lacuna in it which enables the corrupt officials to escape scot free. And, on the top of it, we are going to enact a law that whosoever alleges corruption on the part of any officer, says that any public servant from the *chowkidar* to the highest civilian officer, has committed any act of fraud or corruption, has to be put on his defence. On the sanction of the Secretary to the Council of Ministers or by any officer who is superior to the officer in question, against whom there are charges of corruption from the Press or from the public, a complaint can be lodged. There will be a charge-sheet filed by the public prosecutor; it will go straight to the Sessions court; the Sessions court will not try with the aid of jury, as in other cases but the Judge will sit as a Magistrate and then try the case as if it were a warrant case, charge-sheets by the Police. The complaint can be lodged not in one month or two months after the alleged offence, but the public prosecutor has got time up to six months to file these charge-sheets in the Sessions court. The committal proceedings are obviated. There is no investigation, there is no case diary statement, no inquiry. The "defamed person" does not come into the witness box. Here is a charge-sheet and the man is asked to defend himself against the charge of defamation. He has more or less to prove that he has not defamed the official concerned who does not come even to the court. This is the proposed procedure! I would respectfully submit to this House that on the top of the various methods by which

[Shri U. C. Patnaik]

corrupt officials are being protected and supported, this is another measure to support corrupt officials; not only to support corrupt officials, but to stifle honest criticism throughout the country—criticism from the Press and criticism from the platform.

I would like to point out that much of the corruption is there because there is inefficiency at higher levels; there is ignorance of the methods of administration. Formerly, you had at least a senior I.C.S. man who was responsible to Government, who knew his job and who was looking after things. Now you have not got even a senior experienced officer. Somehow or other, morale has gone down and most of the reports that we are now getting concern very senior officers and only one or two cases have gone to court, which could not be avoided in view of other concomitant circumstances. During the last three years, there are a number of reports, and I would like to know from the hon. the Home Minister what action is being taken on the reports of the Public Accounts Committee and the Estimates Committee which represent....

Mr. Chairman: Order, order. We are not discussing here whether there is corruption in the Government or not. Therefore, he need not multiply instances. He may just mention the defects in the procedure which is being proposed by Government and confine himself to them.

Shri Velayudhan: He is only giving examples.

Mr. Chairman: Many examples are not necessary.

Shri U. C. Patnaik: I have just pointed out that this particular clause will stifle public opinion. It will terrorise the Press and you will not have reports of corruption, with the result that corruption will go on rampant. Therefore, I would appeal to the hon. the Home Minister at least to drop from this clause the provision relating to Ministers and public servants, because they are public servants and are dealing with the day to day administration of government. They must be prepared to stand public criticism; they need not be thin-skinned because they have got to answer to the public since they are paid from the public coffers. Therefore, I would request Government not to press the clause as regards Ministers and other officers of State from the seniormost down to the *chaprasi*.

Secondly, I would suggest that instead of six months, the period be reduced to three months, because the shorter the time-limit the earlier will it be taken notice of. In the case of the President, the Vice-President, Rajpramukhs and Governors who do not have anything to do with the day to day administration and who are practically running our hospitality organisation and receiving foreign guests and others on behalf of the country, for these people, I would say that the clause might stand but that the period be reduced to three months. I would submit that by taking up this attitude, Government will restore confidence in the country and show their *bona fides* that they are out, not to support corruption, but to put it down.

Pandit Munishwar Datt Upadhyay (Pratapgarh Distt.—East): Although I feel that this measure which is being discussed is a peculiar measure and the provision that is being made now in this Bill is a special provision, which does not generally find a place in the law of any other country, I could not follow the approach of my hon. friend, Shri U. C. Patnaik, when he goes on reciting cases of corruption. Nobody denies that there are corrupt officers in the Government. But I do not agree with another friend who spoke earlier that all public servants were corrupt. There are corrupt people in the services, as there are corrupt people outside also. But the whole difficulty is that the provision that is proposed to be made is a provision which appears to be necessary in some form or other from the viewpoint of the hon. Members who have very badly criticised it.

Shri N. S. Jain: Exactly.

Pandit Munishwar Datt Upadhyay: At the same time, to have such a special provision, I think, does require a special procedure, special court, special prosecutor and everything special.

An Hon. Member: Not everything.

Pandit Munishwar Datt Upadhyay: I would submit that the Report of the Select Committee is a great improvement upon the original provision that was contained in the Bill. Arrest without warrant and such other provisions have disappeared now; they are no more there. A special provision has been made. The Public Prosecutor is now to prosecute and he has to file a complaint on behalf of the person defamed. It is confined to the conduct in the discharge of his public functions and not to other aspects of the life of the public servant who is defamed. All these improvements are there; there is no doubt about it. As I submitted in the very beginning, it is a special law and it needs special attention and special provision in a number of ways. The need for the prosecution, from the viewpoint of the Government—I think it might be the experience of a number of hon. Members here—is that there are so many irresponsible statements, and accusations against high dignataries of the State—the President, Vice-President, Ministers and also other public servants. Sometimes these statements are so irresponsible and so much objectionable that some way has to be found to check it. That must be the anxiety of the Government; I can very well feel it. To check it, they are trying to find out some way or some provision of law they want to have on the statute-book.

The other day, when I was making my submissions to this House, I said that I was very much conscious of this fact. I had also personal experience of this. Wild statements are made. Booklets are published and pamphlets are distributed against public functionaries. It becomes very difficult to control such things unless there is some law of this kind which might be practicable.

One course is open that the person defamed should file a complaint against the person who defames. In the case of public functionaries, and public servants also, it is not so easy and practicable. Seldom do the people go to the Court. Seldom do we find that any complaint has been filed by the public servant. There is one very serious defect in that case to which I want to draw the attention of the hon. Members who very badly criticised it and in very many aspects I absolutely agree with them. One aspect of the question is that public servants who are really corrupt, if any allegations are made against them, even they express the same excuse like the other public servants who are not corrupt. Attacks are being made against them also. They try to show that they sail in the same boat and they do not go to the Court. If they go to the Court, they might come to grief but they do not go to the Court saying that they are helpless; they have got public duties to perform and they have not the time or money, etc. So many other public servants who are defamed do not go to the Court. There are such corrupt persons who should be sent to jail and they should be brought to book. Still under the same excuse, they are also protected. If the person who defames is escaping on account of no complaint being filed against him by the person defamed, I submit that some of these public servants also who are really corrupt and who ought to have been hauled up are not going to the Court under the same excuse that others are not going to the Court and they also cannot go to the Court. There should be some way to bring the matter to the Court. But, the viewpoint of the Government, I find, is not quite correct. I want to suggest some amendments to it although those amendments have not been suggested yet. I have been thinking over this matter for long and I shall make certain suggestions. The law as it

[Pandit Munishwar Datt Upadhyay]

stands is that if a complaint is filed by the complainant and if the accused pleads truth of the allegations that he had made and if he can prove the truth of those allegations, then, he escapes conviction. In this case also my submission is that there must be some forum before which the person who defames and who makes wild allegations should be brought. Alongside with that there should be a provision so that the conduct of the person against whom such allegations are made might be enquired into. My submission is that in this case, a Public Prosecutor is now being authorised to file the complaint and the accused is coming before the Sessions Court—whether it is the Sessions Court or some tribunal—before whom under some special procedure such prosecutions are launched. It should be open to that Court to make an enquiry into the truth of the allegation if it is pleaded by the accused that it is true. In that case a regular enquiry should be held into the conduct of the public servant against whom such allegations are made....

Shri S. S. More: Can we not have this provision under the Prevention of Corruption Act and have a sort of tribunal which will go into all these matters without placing the person who has exposed the scandal into the dock?

Pandit Munishwar Datt Upadhyay: As regards the question whether it should be under this law or not, I have not paid much attention; I have not thought over the matter whether it is to be provided here or in some other Act. But my submission is that in such cases there should be a provision that after the complaint has been filed and the truth of the allegations pleaded by the accused, the allegations made by the accused should also be enquired into in a regular manner. If they are proved, the tribunal or the Court should have power to punish the public servant concerned also in the same proceedings. Such a provision will appear to be unique and peculiar but the whole thing is unique and special. There is no such law—I cannot have an exhaustive idea of the whole world—but I have not been able to find such law in any other country....

Shri N. S. Jain: Circumstances are also unique in India.

Shri Raghubir Sahai: If the allegations are true, then, I think Government will take proceedings against the officer concerned.

Pandit Munishwar Datt Upadhyay: My hon. friend has suggested another course. My submission is that such cases may be started later on; that is a different matter. If that provision is made in this amendment here, then I think things may improve to some extent. Otherwise, if you do not make any such provision, then, as it has been submitted by a number of hon. Members, public servants who are corrupt have no check; there is no check for them. Their number might be limited. I cannot make a general statement that all of them are corrupt. But it will be an encouragement to those who are corrupt. I think that—as my hon. friend Mr. Patnaik has suggested—it may place a premium on corruption although it is not the intention of the Government. Therefore, to have no provision of this kind will stifle criticism as it was suggested just now, and people will very much fear in saying anything against the public servants thinking that they can be hauled up for even making allegations which they consider to be absolutely correct because in the beginning it may not be possible to determine whether they are true or false. I do not know what machinery will be used for investigating these cases. I think the machinery used will again be the police, a machinery which cannot very much be trusted. Considering this point my submission is that the provision is absolutely necessary and such cases must go to the Court. Neither the corrupt public servant wants that these cases should go to the Court nor the person who makes wide allegations wants that such cases should go to the court. Both these persons may be guilty, sometimes one and sometimes the other. Therefore, such cases must go to some Tribunal or Court where they may be enquired into and after proper enquiry necessary punishment should be given to the person who really deserves it.

The other point that I wanted to submit was with regard to clause 97. This clause 97 is likely to be misleading if you introduce this proviso here. If you read section 503 you find that under certain circumstances the Court shall consider it proper to issue commission for the statement of certain witnesses. In this case if you provide for certain functionaries and you say that for such and such functionaries commission should be issued, the Court will generally not issue commissions for the examination of functionaries or persons other than those who are now included in this amendment. Therefore, my submission is that it might mislead and it is necessary that you do not have this provision at all naming this President. Vice-President and Rajpramukh. Do not name anybody at all, or if you name, you name others also who are otherwise very busy and cannot be available for evidence, say, Ministers, Lieutenant Governors and others.

The last thing that I would submit would be in support of clause 114. I think as it now exists, it should be welcomed by everybody. There can be no arrest without warrant, now the offence is bailable; it is compoundable and then the trial is that of a warrant case where the accused can have a good deal of opportunity of cross-examining and prosecuting his defence. Then the imprisonment is simple—of course, it was simple from the very beginning—and the Court is a Court of Sessions and the prosecutor is the Public Prosecutor. Therefore, I do not think there should be any objection. My submission is that for this special law a special procedure, a special provision should be made and this ordinary provision will not meet the needs of the situation.

Shri N. S. Jain: Sir, I rise to support this clause. As I said earlier, I think this clause is a necessary clause in the interest both of the persons enumerated in the clause and of the public as such. I was rather wondering when certain Members were referring to the wholesale corruption in our services.

Shri S. S. More: The Planning Commission has referred to that.

Shri N. S. Jain: Yes; the Planning Commission has referred to it, but we should have certain sense of proportion when we try to depict things in proper perspective. When we say that there is corruption, may I ask which Government there is in this world where there is no corruption? Let us understand things and let us not be so self-criticising that everything which is ours is bad and everything which is American or Russian is good. Is there no corruption in America? Is there no corruption in China?

Shri Nand Lal Sharma (Sikar): Is this an argument for having corruption here also?

Shri N. S. Jain: I do admit that there is corruption. To what extent is that corruption? One of my hon. friends said that there is wholesale corruption and that every government servant is corrupt. If every government servant is corrupt then I say that every Member of Parliament is also corrupt. If the government servants are so bad then the Members of Parliament are also bad. (*Interruption*).

Shri S. S. More: We might accept this as a confession on his part but it is not binding on us.

Shri N. S. Jain: I want to say that this attack on corruption in the way in which it has been entailed in this House today is not very creditable on our part. It does not reflect the correct position in the country. One of the

[Shri N. S. Jain]

Members said that this is the way that China went. I am sure that India is not going the way that China went under Chiang-Kai-Shek. I may tell you that there are reasons which made China to go red in that way and those reasons are being looked into and are being rectified by the party now in power.

[MR. DEPUTY-SPEAKER *in the Chair*]

To a certain extent self-condemnation may be correct, but wholesale condemnation of our ownselves rather brings us into disrepute in the world and in the mind of the whole public who are looking to us for guidance.

Shri Velayudhan: Is there any such law in any other democratic country?

Shri N. S. Jain: I will tell you about that too. As I said, there are certain significant things in this country; certain peculiar things in this country which are not present in other countries. There are so many laws in this country which are not the same as in other countries. Don't you know that in other countries there is no section 162? We have got it here. Laws are always different in different countries.

Let us not unnecessarily drag in the names of other countries when we are talking of ourselves.

One thing to which I wish to draw the attention of the House is—and which I have not been able to understand as yet—to consider how the situation will be changed by this amendment as suggested by some Members. How will this amendment change the present situation of defamation? So much is being talked about the Press, guillotine of the press and that the press will not be able to write anything. I say, that whatever the Press is writing today, if it is not defamatory would it become defamatory after this amendment? We are not changing the law of defamation. We are not making things which are not defamatory today to be defamatory tomorrow. We are only changing certain procedure. How does that procedure affect the liberty of the Press? Let us calmly understand it. It is no use giving licence to people. Let them have rights but not licence. Therefore, the first thing to which I will draw the attention of the hon. Members is that, if they would look to the Law of defamation, they will realise that the position will not be changed by this amendment at all. One of my colleagues here was saying that no public worker would be able to draw attention to the corruption amongst government servants to any higher officers or to the Government if this amendment is passed because he would be hauled up. May I know, how, without this amendment that public worker is saved from being hauled up? If you just look at section 499 of the Indian Penal Code, you will find that there are exceptions to the definition of 'defamation' and in the first, eighth and ninth exceptions, it has been made clear that if anything which is said is true and is for the public good or for getting redress, it is not defamation. If a public man says that such officer has accepted a bribe....

Shri Nand Lal Sharma: Section 499 of the Indian Penal Code?

Shri N. S. Jain: I am talking of section 499 of the I.P.C. It remains as it is and there is no change.

Shri V. G. Deshpande: Great concession!

Shri N. S. Jain: No need of interjections about it. After all, it is a matter of law and not a matter of playing to public galleries. We are not amending the law of defamation. The law of defamation remains as it is today, and if any public worker had any protection today, he would have the same protection tomorrow also.

Mr. Deputy-Speaker: The point is very simple. It is not the general law of defamation that is sought to be amended in this Bill. Only in cases of certain officials, including the Rashtrapati, Ministers, etc., when they are acting in a public capacity, this amendment seeks to make a provision. It is still open under this amendment for the defamed person to lodge a complaint by the Public Prosecutor against the person defaming him. If he is minor or an idiot, the guardian can file the complaint and if he is a *sui juris*, he himself may do it. Now, power is taken by the Government to file complaints in special cases of defamation against public servants. There are two views in the matter. The public official may shirk the responsibility of coming out in the open and just answering those charges which have been levelled against him. The Government might think that in the public interest it might be necessary to clear up the matter by instituting a complaint in proper cases. In the interests of the Government, they may themselves take up the case. There is nothing in this Bill preventing the examination of the public officer, who is defamed, as a prosecution witness. The other view is that this provision is intended to screen the defamed public servant and avoid his coming into the witness box or be cross-examined. Even in the present law, if a public servant who is defamed files a complaint and he proves successful, he can get himself reimbursed by the Government to the extent of his expenses. There might be cases where the man may not be able to afford all the expenditure and in such cases even the Government may advance him the expenses. This is a short point—whether the complaint has to be lodged by the Government servant himself and if he does not lodge a complaint, it could be done by the Government through the Public Prosecutor. It is always open to the man to complain or not to complain. The Bill enables the Government to decide whether the complaint ought to be lodged or not. If the Government considers it desirable that in all such cases the complainant shall also be examined as a necessary witness, the accused is given the opportunity to cross-examine him.

From what has been said by the hon. Minister, I think that in particular cases the man will be brought to the Court in the interest of public administration. It is a simple point. If the person defamed is made a necessary witness, he will be examined earlier or later.

Shri S. S. More: Since you have intervened, can we make a suggestion at this stage? Take for instance this Venkataraman's case. A preliminary inquiry was held before a judicial authority and after the findings of that inquiry, prosecution was started. You can devise a tribunal or a similar machinery by which these allegations can be gone into without placing anybody in the dock, and after that finding, you can proceed further.

Mr. Deputy-Speaker: What the hon. Member suggests is this. Today it is open to the person who is defamed to put the other man into the dock.

Shri S. S. More: Let him take the responsibility and go to the Court.

Mr. Deputy-Speaker: Even here, whoever invokes the aid of the police, though he may not himself be the complainant, he may be liable to malicious prosecution because he invoked the aid of the police. But these are rare cases. In all criminal cases, the Magistrate can order a preliminary enquiry under section 202, but it is not a cognizable offence. Therefore, it is a little better than an offence of a private complainant. In section 202, as soon as a complaint is made, the Public Prosecutor need not be examined on oath. He can send it to some other Magistrate or police or some other authority to make some investigation. The whole thing boils down to this.

Pandit Thakur Das Bhargava: The suggestion is a good one but the Sessions Judge can not proceed under Section 202 as it is not like the Magistrate's Court which is interested with powers under section 202.

Shri Bogawat: Why should the complainant have his expenses borne by the Government but the accused be burdened with the expenses for defending himself?

Mr. Deputy-Speaker: Because of giving the information.

Shri N. S. Jain: Is this a Select Committee meeting?

Mr. Deputy-Speaker: Order, order. I am here to clear up difficulties. The hon. Member evidently feels that I ought not to have intervened. I am entitled to do so.

Shri A. M. Thomas (Ernakulam): You can express your own opinion.

Shri N. S. Jain: What I meant was...

Mr. Deputy-Speaker: The hon. Member must obey the Chair. I am only explaining whenever there is any difficult position. I am watching, as hon. Members would have found and I do not have anything to say for or against but I am explaining the difficulties without my being misunderstood. When I have some difficulty, I feel that before I put any matter to the vote of the House, hon. Members must have every opportunity to know every link of the argument—it is not blindfolded voting—otherwise, I am not going to put anything to the vote of the House. Whenever I find a difficulty,—I believe I am the G.C.M. of the House,—that difficulty will be felt by some other Members too and therefore it is my duty to have it explained. It is not open to the hon. Member to get up and say "Is this a Select Committee"? Every hon. Member, including myself, should be able to understand what is going on in the House and unless we understand every link of the argument....

Pandit Thakur Das Bhargava: Now, according to new rules the Chair is entitled to guide the debate in the House.

Mr. Deputy-Speaker: I am only trying to remove the difficulties and it cannot be said that I am arguing for the Government or against the Government.

Shri Datar: May I point out that the point you have made is exactly the one Government are considering, because Government do desire to meet the wishes of the Members of Parliament to the largest extent possible and, therefore, we are considering that amendment as sympathetically as possible. The amendment is—

For 'Warrant cases by Magistrate' *substitute*:

> "by Magistrates of warrant cases instituted otherwise than on a police report and the person against whom the offence is alleged to have been committed shall, unless the Court of Session otherwise directs, be examined as a witness for the prosecution."

Mr. Deputy-Speaker: Let us cut short where discussion is unnecessary.

Shri N. S. Jain: I was not questioning the Chair's rights to intervene. I was only questioning the rights of other Members to interrupt me like this.

Mr. Deputy-Speaker: At my invitation they began to talk.

Shri N. S. Jain: What I was submitting was that the position of defamation is practically the same as it was before except to the extent that instead of the person complaining, there is some other official who would initiate these proceedings, but as far as the person defamed is concerned, his presence as a witness is a necessary factor and that is exactly my amendment. On the other amendment also—I think Shri Sadhan Gupta gave that amendment—the Government is favourably considering it. They are also considering favourably some amendments which provide compensation like the one in section 250. So far as that is concerned, there is not much difficulty about it. But what the hon. Members were suggesting was that this change in the procedure would be a sort of guillotining the Press or suppressing the Press. That is what I could not understand. If you just look at the whole thing, you will find that the only change is that instead of the complainant coming in himself, it is only through some other person that he comes in. Then he comes in the witness box. He is putting himself under cross-examination. Then, if he were a complainant, it would be the same thing, with the same result. But I would go a step further. In fact, this provision is not so much against the Press or against those who want to defame but against the person defamed. That is my view. In fact, if you look at the newspapers, you will find that so much is being talked about government servants and even sometimes about the Ministers. I gave an example here the other day that a thing was written in black and white—that such and such a Minister by name had accepted Rs. 2,000 as a bribe. It was so written in a paper—it is a registered paper with a certain amount of circulation. Nothing was done. I know that the Minister concerned was an honest man. But that is a different thing altogether. But when the thing is there, and it is allowed to be digested by the public as such, may I know what effect it would have? When I questioned that Minister as to what he was going to do about it, he said, "Oh, this yellow press; why should I bother? I have no time to go into these petty things". Nobody took note of it. It is there still. My submission, therefore, is this. Such things, if proved, if there is any truth in them, if a man has written and there is some truth in them, there should be an opportunity given to him for proving it and substantiating it. If it has been written only as a matter of farce or as a matter of what you call defaming another man,—that is, vilifying him—certainly the law must have its own course. Nobody should have any objection to that. If such writing comes in the Press—as it happened in Bijnor only a few months back—then, I would immediately expect that the Government would within six months file a case against him. If the Government would not file a case against him, some responsible people would write to the Government and say, "Kindly take action against him". That would be a way of goading the Government to take action and make that Minister appear before the Court of Law to clear his position. As yet, there is no such provision. When we talk about government servants to higher officers that such and such a man is corrupt, they say, "Yes, but you just give me some proof that he is corrupt". We reply that such and such a paper has written about it. But they say, "Oh, that is yellow paper, yellow Press. They have written about X, Y, Z, etc. They are not taking any action. Why should that fellow take action? He is after all a poor man getting Rs. 200 a month. Do you think he can go to the Court of Law"? So, after this amendment if any such thing happens, we can very well ask the Government to file a complaint. So far as the question of suppressing the Press or of the critics is concerned, I do not think that it affects the position in any way. It is exactly the same as it was before the amendment. The only difference would be that if the person criticised or defamed would not have either the money or the guts to go to a Court of Law to substantiate his honesty, now, he will be forced to go to a Court of Law. I do not understand how that person who will now go to a Court of Law through a Public Prosecutor would have greater advantages over a person who comes as a complainant. There will be no police, there will be no investigation through the police. In fact, there will be investigation, but that investigation is at what level? It will be at the Government level. Now, as far as I understand, the Government is considering the levels of the sanctioning authority for such prosecution in each case. It may not be the Head of the Department but perhaps the Government itself. So, if any such thing is written in a press, then it would be up to the Government to get the case investi-

[Shri N. S. Jain]

gated before they file a complaint. After all, a complaint would not be filed without any enquiry or investigation about the facts. What I am submitting is this. Now, the procedure is becoming more wholesome and it would give an opportunity to all those honest persons, who want to bring these corrupt officers to book, to take up a little courage and give their evidence against those people and have them punished. I think, as far as the law of defamation is concerned, they will have protection from the Courts if they can honestly say and prove to the Court that they had *bona fide* facts with them to show that such and such a man was really corrupt.

As for the position of the accused—that is, putting the accused in this case at any worse level than what he was before the present amendment—I do not think there is any such thing in this amendment. It was said that we are unnecessarily giving protection to the government servants and that protection should be given only up to the ministerial level. My submission is that if anybody requires protection or exposure, it is really the Government. I read in this clause, not protection but exposure. He is to be exposed by these means. Now, the Government's hands will be bound, tied down, that if within six months they do not bring a prosecution against the concerned officer, then, after six months, we shall have a right on the floor of this House to say to the Government, "Here is a libel against that man—that he is a corrupt person—and you have not taken action which you are entitled to do. We understand that this is a fact. What are the Government going to do"? So, I think as far as the public servant is concerned, he must be included in this clause.

About clause 97, I wish to say one thing. Some Members said that there is an unnecessary discrimination and that why we should discriminate between President, Rajpramukh etc. by saying that they should not come personally and appear before a Court of Law. It was also said that no such discrimination or distinction was there in the times of the British administration. If you just look at the Code of Civil Procedure, section 133 says that the State Government may by notification in the Official Gazette exempt from personal appearance in a Court any person whose rank, in the opinion of such Government entitles him to the privilege of exemption. They had given the right of giving exemption to the State Governments. Here, we are not leaving it to the choice or goodwill of the Government. As far as the criminal court is concerned, he is not an accused. If there were an amendment that if a Rajpramukh is an accused, he should not appear there and he should appear through counsel, there would have been something to say. As a witness, when you want the President or a Minister or a Governor to appear, I do not think there is any difference between a witness in a criminal court and a witness in a civil court. As far as this provision is concerned, it is, I think, very necessary to provide that these persons who are so busy and so placed as Rajpramukh or Governor or President should not be called upon to come to the court every second month or third month only on a certain person calling them as a witness. After all, there is something called dignity in our culture. Whatever the communists may say, we consider our Ministers, etc., to be high and dignified. There is no such thing as every one being equal; there is no such thing in this world that every man is equal in all respects. It shall never happen also. As far as I know, even in communist Russia which is what I may call the heaven of the communists, there is such a distinction between the lower and the higher, there is so much difference in the emoluments between the higher and the lower. We have never heard of

Stalin appearing like an ordinary man in the street before the public.

Shri Nand Lal Sharma: Equality before the law.

Shri N. S. Jain: This is equality before the law. I am saying that we should not drag in unnecessarily any matter, which have no substance at all. As far as this amendment is concerned, I consider it fair and necessary and with the amendment that the person defamed shall be a necessary prosecution witness it should be accepted by the House.

Mr. Deputy-Speaker: Before I call upon another hon. Member, let the hon. Members move the other amendments which have not so far been moved. The following additional amendments may now be moved, subject to their admissibility.

Clause 25: Amendment numbers 106 316, 526, 108, 317, 222, 318 and 110.

Clause 97: Amendment No. 536.

Clause 25

Pandit Thakur Das Bhargava: I beg to move:

In page 7, lines 14 and 15, *omit* "or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State".

Shri N. C. Chatterjee: I beg to move:

In page 7, lines 14 and 15, *omit* "or a Minister, or any other public servant employed in connection with affairs of the Union or of a State".

Pandit Thakur Das Bhargava: I beg to move:

(i) In page 7, lines 17 and 18, *for* "without the accused being committed" *substitute* "after the accused has been committed".

(ii) In page 7, *omit* lines 29 to 35.

Shri N. C. Chatterjee: I beg to move:

(i) In page 7, *omit* lines 29 to 35.

(ii) In page 7, *omit* lines 29 to 32.

(iii) In page 7, line 44, *add* at the end:

> "in respect of those instituted otherwise than on a police report."

Pandit Thakur Das Bhargava: I beg to move:

In page 7, *omit* lines 48 and 49.

Clause 97

Pandit Thakur Das Bhargava: I beg to move:

In page 27,—

(i) line 12, *for* "or any Magistrate" *substitute* "District Magistrate, Presidency Magistrate or Magistrate of the first class"; and

(ii) *for* line 20, *substitute*:

'(c) in sub-section (2), *for* the words "or Presidency Magistrate" the words "Presidency Magistrate or Magistrate of the first class" shall be substituted.'

Mr. Deputy-Speaker: All these amendments are now before the House. I shall call the hon. Member in the last Bench. In a huge debate like this hon. Members from all sections must have an opportunity to speak.

Shri Nand Lal Sharma: The Opposition has not been called up to this time.

Mr. Deputy-Speaker: I will call Shri Nand Lal Sharma also. I shall call Shri V. G. Deshpande also, time permitting.

श्री मू० एस० दुबे : उपाध्यक्ष महोदय, मैं इस २५ वें क्लाज में जो एमेन्डमेन्ट वेंकटरामन साहब ने मूव किया है उस के साथ उस की ताईद करता हूं।

उपाध्यक्ष महोदय : उस का सारांश क्या है ?

श्री यू० एस० दुबे : उस का सारांश मैं अपनी स्पीच के दौरान में बता दूंगा । मुझे यह कहना है........

Shri Raghavachari (Penukonda): Am I to take it, Sir, that the Chair has waived notice for all these amendments of which we had no copies or notice.

Mr. Deputy-Speaker: I think they have been moved by Shri Venkataraman. I do not know what the position is.

Shri Venkataraman: I gave notice of the amendments to the House here. Since they are coming up for voting, I thought it was enough if notice of the amendments is given to the office. I have already given notice of these amendments.

Shri U. S. Dube: The Chair referred to these amendments and therefore I referred to them.

Mr. Deputy-Speaker: We will treat these amendments as suggestions now. By tomorrow, they will be regular amendments.

Shri Nand Lal Sharma: Even without the House knowing those suggestions?

Mr. Deputy-Speaker: It is open to any hon. Member to make suggestions.

Shri Nand Lal Sharma: What is the suggestion made?

Mr. Deputy-Speaker: Therefore, I have asked him the *saramsa.* Let him deal with that.

श्री यू० एस० दुबे : मैं यह अर्ज कर रहा था कि इस क्लाज के ऊपर बड़ा वावेला हुआ । कहा यह गया कि यह क्लाज एक बिल्कुल नया क्लाज है और नये क्लाज के द्वारा गवर्नमेन्ट की और सरकार के सारे अहलकारों की बचत की कोशिश की जा रही है और जो भ्रष्टाचार उन में फंसा हुआ है उस भ्रष्टाचार के आरोप से उन को बचाने की सरकार की पूरे तरीके पर इच्छा है । इसी वजह से यह क्लाज आया है या कम से कम इस क्लाज का नतीजा यही पैदा होगा । इस बात पर बहुत ज्यादा जोर दिया गया । मेरी गुजारिश है कि यह चीज बिल्कुल उस की उल्टी है । बात यह है कि जो दलीलें विभिन्न मेम्बरों ने अपने व्याख्यानों में यहां दी हैं वास्तव में वही सारी की सारी इस बात की वजह हैं कि गवर्नमेन्ट को क्यों इस एक्ट में संशोधन को लाना पड़ा ।

एक चीज से इन्कार नहीं किया जा सकता कि इस देश के भीतर, जब से हमें स्वाधीनता प्राप्त हुई, उस स्वाधीनता प्राप्ति के बाद हमारे कुछ सरकारी अफसरों में भ्रष्टाचार की मात्रा काफी तादाद में हो गई, साथ ही इस बात से भी इन्कार नहीं किया जा सकता कि उस भ्रष्टाचार को जितना वह है उस से कहीं ज्यादा बढ़ा चढ़ा कर कहने की आदत लोगों में है । अब प्रश्न यह है कि इस को रोका कैसे जाय ? मेरा ख्याल है कि इस सदन के प्रत्येक सदस्य की यह धारणा है कि हमारे सरकारी अफसरों के बीच में से या सरकार के जितने कर्मचारी हैं उन के बीच से भ्रष्टाचार को हटाया जाय । साथ ही यह भी धारणा है कि देश में एक इस तरह का वातावरण पैदा किया जाय कि खामखाह लोगों में यह आदत न पैदा हो कि वह किसी सरकारी अफसर के विरुद्ध बिला वजह किसी चीज को जरूरत से ज्यादा बढ़ा चढ़ा कर कहें । इस चीज का हल निकालने की सरकार की और इस सदन के सभी सदस्यों की इच्छा है तब प्रश्न यह है कि इस का क्या प्रबन्ध किया जाय । कुछ लोगों का कहना है कि इस के लिये कोई अलग तरीका सोचा जाय, किसी जांच का, या प्रासिक्यूशन का, या किसी प्रकार से कोई नया ट्रिब्यूनल बनाने का । पर फिर सवाल आ कर पैदा हो जाता है कि आखिर वह जांच किस के द्वारा होगी ? इस जांच के बाद फिर सरकार की जो एजेन्सी है, वह वही एजेन्सी है जिस एजेन्सी के बारे में आप की इतनी शिकायतें हैं । और मेरा ख्याल है कि इस सदन के जो कांग्रेसी सदस्य बोले या विरोध पक्ष के सदस्य बोले, सब का राग एक ही सा मिलता हुआ नजर आया । तो इस पर क्या किया जाय ? यह कह देना आसान है कि साहब, यह आदमी

रिश्वत लेता है, यह बेईमानी से काम करता है, या यह किसी गलत ढंग से काम करता है, जिससे कि शासन की प्रतिष्ठा को हानि पहुंचती है, जिस से इस मुल्क की गवर्नमेन्ट नीची होती है, दुनियां में एक वातावरण ऐसा पैदा होता है जिस वातावरण में यहां के जितने सरकार के आदमी हैं वह नीची निगाह से देखे जाते हैं। यह एक अम्र मुसल्लमा है कि यह चीज पैदा हो जाती है, इस के दूर करने के सिलसिले में.....

Mr. Deputy-Speaker: Evidently, the hon. Member would like to take some more time?

Shri U. S. Dube: Yes.

Mr. Deputy-Speaker: The hon. Member may continue his speech tomorrow.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 30th November, 1954.

INDEX
TO
LOK SABHA DEBATES—PART II

VOL. VIII—NO. 11

29TH NOVEMBER, 1954

A

ADJOURNMENT MOTION(S)—
- *See* "Motion(s) for Adjournment".

AGRAWAL, SHRI M. L.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1317.

AMJAD ALI, SHRI—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1317, 1318, 1321.

ANDHRA—
- Motion for Adjournment—
  - Detention of political prisoners in ——. (*Held over*). 1223-26.

AUXILIARY TERRITORIAL FORCE BILL—
- *See* under "Bill(s)".

B

BHARGAVA, PANDIT THAKUR DAS—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1246, 1252—71, 1272, 1277, 1284-85, 1286-87, 1291, 1292, 1344, 1351, 1352.

BILL(S)—
- Auxiliary Territorial Force Bill—
  - Motion for leave to withdraw. 1226-27.
  - (*Withdrawn*). 1227.
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1227—1356.

BOGAWAT, SHRI—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1322—27, 1345.

BRITISH MILITARY AIRCRAFT—
- Motion for Adjournment—
  - Use of Dum Dum Aerodrome by ——. (*Consent withheld*). 1223—25.

C

CHATTERJEE, SHRI N. C.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1234—43, 1351, 1352.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—
- *See* under "Bill(s)".

D

DATAR, SHRI—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1287, 1346.

DESHPANDE, SHRI V. G.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1317

DUBE, SHRI MULCHAND—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1231—34, 1307—09, 1316, 1318.

DUBE, SHRI U. S.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1317, 1352, 1353—55.

DUM DUM AERODROME—
- Motion for Adjournment—
  - Use of —— by British Military Aircraft. (*Consent withheld*). 1223-25.

G

GADGIL, SHRI—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1243—47.

GOPALAN, SHRI A. K.—
- Motion for Adjournment—
  - Detention of political prisoners in Andhra. 1225.

GUPTA, SHRI SADHAN—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1290, 1298—1307, 1316, 1317, 1318-19.
- Motion for Adjournment—
  - Use of Dum Dum Aerodrome by British Military Aircraft. 1224-25.

J

JAIN, SHRI N. S.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1280, 1340—42, 1346—51.

JAISOORYA, DR.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1309-14.

K

KATJU, DR.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1268-69, 1277-78, 1280—86, 1297.

M

MISRA, SHRI R. D.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1314—16, 1319, 1321-22.

MORE, SHRI S. S.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1246, 1277, 1281-82, 1288, 1289, 1337, 1344.

MOTION(S) FOR ADJOURNMENT—
- Detention of political prisoners in Andhra. (*Held over*). 1223-26.
- Use of Dum Dum Aerodrome by British Military aircraft. (*Consent withheld*). 1223-25.

N

NAYAR, SHRI V. P.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1253, 1320-21.

NEHRU, SHRI JAWAHARLAL—
- Motion for Adjournment—
  - Detention of political prisoners in Andhra. 1223-24, 1225.

P

PATASKAR, SHRI—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1275—80, 1287, 1288, 1291.

PATNAIK, SHRI U. C.—
- Code of Criminal Procedure (Amendment) Bill—
  - Consideration of clauses. 1328-34.

POLITICAL PRISONER(S)—
- Motion for Adjournment—
  - Detention of —— in Andhra. (*Held over*). 1223—26.

R

RAGHAVACHARI, SHRI—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1290.

RAGHAVAIAH, SHRI—
  Motion for Adjournment—
    Detention of political prisoners in Andhra. 1225.

RAGHUBIR SAHAI, SHRI—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1271—75, 1338.

S

SAIGAL, SARDAR A. S.—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1327.

SHARMA, PANDIT K. C.—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1267, 1317.

SINHA, SHRI NAGESHWAR PRASAD—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1247-50.

SOMANA, SHRI—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1250—52, 1317.

T

TEK CHAND, SHRI—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1316. 1318.

TYAGI, SHRI—
  Auxiliary Territorial Force Bill—
    Motion for leave to withdraw. 1226-27.

U

UPADHYAY, PANDIT MUNISHWAR DATT—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1334-40.

V

VAISHNAV, SHRI H. G.—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1318.

VENKATARAMAN, SHRI—
  Code of Criminal Procedure (Amendment) Bill—
    Consideration of clauses. 1297, 1319-20.